DOCUMENT RESUME

ED 321 596 FL 800 144

AUTHOR	Wrigley, Heide Spruck; Brady, Katherine A.
TITLE	Making Amnesty Work: Joint Efforts To Meet the Needs of Newly Legalized Workers.
INSTITUTION	Consortium on Employment Communication, Long Beach, CA.; Immigrant Legal Resource Center, San Francisco, CA.
SPONS AGENCY	Ford Foundation, New York, N.Y.
PUB DATE	Nov 89
NOTE	134p.
AVAILABLE FROM	Immigrant Legal Resource Center, 1663 Mission St., #602, San Francisco, CA 94103.
PUB TYPE	Guides - Non-Classroom Use (055)
EDRS PRICE	MF01/PC06 Plus Postage.
DESCRIPTORS	Agency Cooperation; Citizenship; Compliance (Legal); Curriculum Development; English (Second Language); *Immigrants; *Institutional Cooperation; *Labor Education; *Literacy Education; Program Development; Public Policy
IDENTIFIERS	*Immigration Reform and Control Act 1986; Special Agricultural Worker Program

ABSTRACT

This handbook provides information and ideas to be considered in the formation of the kinds of partnerships among service providers (i.e., advocacy groups, coalitions, educational agencies, churches, community-based organizations, etc.) that will be needed to enable both documented and undocumented immigrants to meet the Phase 2 legalization regulations of the Immigration Reform and Control Act of 1986 (IRCA). Chapters address the following: educational requirements for immigrant legalization under IRCA; regulations governing IRCA legalization programs, including requirements for eligibility, application procedures, the differential requirements of the Special Agricultural Worker (SAW) program, and eligibility for United States citizenship; approaches and considerations in working with coalitions, hotlines, and non-profit legal agencies to disseminate information about Phase 2; potential for bringing community issues and student concerns into the legalization curriculum; status of newly legalized workers in the changing economy; specific challenges in helping workers become legalized; specific strategies for employers interested in collaborating with coalitions and service providers; regulations concerning employer sanctions and anti-discrimination provisions; responding to immigrant worker needs for English as a Second Language and civics instruction; development of an appropriate curriculum; and the situation of a large population of undocumented persons, many of them refugees from the wars in Central America, who arrived after 1982, the cut-off date for the general legalization program. Appended materials include Immigration and Naturalization Service test questions and sentences, a list of resource centers, an extensive list of print and non-print resources, addresses of regional processing facilities and legalization offices, and an overview of legalized alien eligibility for public benefits. (MSE) (Adjunct ERIC Clearinghouse on Literacy Education)

ED321596

MAKING AMNESTY WORK:

JOINT EFFORTS TO MEET THE NEEDS OF NEWLY LEGALIZED WORKERS

by

Heide Spruck Wrigley

CONSORTIUM ON EMPLOYMENT COMMUNICATION
CALIFORNIA STATE UNIVERSITY, LONG BEACH

and

Katherine A. Brady

IMMIGRANT LEGAL RESOURCE CENTER

"PERMISSION TO REPRODUCE THIS MATERIAL HAS BEEN GRANTED BY

H. Wrigley

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

X This document has been reproduced as received from the person or organization originating it.

☐ Minor changes have been made to improve reproduction quality.

• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

Funding Provided by the Ford Foundation

FL 800144

BEST COPY AVAILABLE

MAKING AMNESTY WORK:

JOINT EFFORTS TO MEET THE NEEDS OF NEWLY LEGALIZED WORKERS

by

Heide Spruck Wrigley

CONSORTIUM ON EMPLOYMENT COMMUNICATION
CALIFORNIA STATE UNIVERSITY, LONG BEACH

and

Katherine A. Brady

IMMIGRANT LEGAL RESOURCE CENTER, SAN FRANCISCO

Copyright November, 1989. Immigrant Legal Resource Center/Consortium on Employment Communication. Do Not Duplicate Without Permission.

Funding Provided by the Ford Foundation

ACKNOWLEDGEMENTS

We would like to thank the following people for their input and suggestions at our "Amnesty At Work" conference on August 8th, 1989 at California State University in Long Beach:

1. George Apkarian, Director of Outreach
   Immigration and Naturalization Service, Western Region

2. Robin Blackwell, Coordinator
   Orange County Coalition for Immigrant Rights (OCCIR)

3. Katherine Brady, Attorney
   Immigrant Legal Resource Center (ILRC)

4. Candice Brown, National Training Coordinator
   Labor Immigrant Assistance Project (project of the AFL-CIO)

5. John Davis, Deputy District Director
   Immigration and Naturalization Service, San Francisco District Office

6. Olivia Ibarra, Attorney at Law
   Irvine, California

7. Anne Kamsvaag, IRCA Coordinator
   Coalition for Human Immigrant Rights of Los Angeles (CHIRLA)

8. Nick Kremer, Faculty Coordinator of Vocational ESL
   El Camino Community College District

9. Jose Luis Lopez
   Assistant to Director of Immigration Reform
   Immigration and Naturalization Service, Western Region

10. Celia Mata, Clearinghouse Coordinator
    Coalition for Human Immigrant Rights of Los Angeles (CHIRLA)

11. Tru Miller
    Tru Lingua Language System

12. Valerie Mincheff,
    Deputy Assistant Regional Commissioner for Investigation
    Immigration and Naturalization Service, Western Region

13. John Nixon, Assistant Dean
Rancho Santiago College

14. Margarita Rebollal,Recruiter
Human Resources, Marriott Irvine

15. Teresa Sanchez-Gordon, Executive Director
Labor Immigrant Assistance Project (project of the AFL-CIO)

16. Heide Spruck Wrigley, IRLI Network Director
Consortium on Employment Communication

17. Linda Wong, Executive Director
California Tomorrow

While many of the ideas presented at the conference have found their way into this handbook, the individual authors are solely responsible for the contents of the individual chapters.

Special thanks to Rebecca Clevesy, Renee Hoyos, and Victoria Ngliem for their efforts in providing research assistance and clerical support.

TABLE OF CONTENTS

Introduction

Chapter 1 Overview of the Educational Requirements

-- Background
-- Fulfilling the Educational Requirement
    Attending a class
    Taking a test
    Showing prior education in the United States
-- Case Examples

Chapter 2 What the Law Says: The Legalization Programs

-- Overview of the Legalization Programs
-- Phase II Legalization: Requirements for Eligibility
    Submit an application with correct documentation
    Submit within the person's individual deadline
    Fulfill the education requirement
    Continuous residence: the 30/90 day rule
    Exclusion: crimes, welfare and HIV testing
-- Phase II Legalization: Procedure for Applying
-- Phase II in the SAW Program
-- Eligibility for U.S. Citizenship

Chapter 3 Getting Help: Working with Coalitions, Hotlines and Non-Profit Legal Agencies

-- How Can Coalitions Help?
-- Promising Practices: A Sampling of Coalition, Agency and Industry Activities
(See Appendix for listing of Legalization Coalitions)

Chapter 4 Linking Curriculum and Community Concerns

Chapter 5 Newly Legalized Workers and the Changing Economy

-- The Big Picture
-- Changes in the Workplace
-- Implications

Chapter 6 Helping Workers Legalize: Meeting the Challenge

Chapter 7 What Employers Can Do

Chapter 8 What the Law Says: the Employer Sanctions and Anti-Discrimination Provisions

-- The Employer Sanctions Provisions
What employers are covered by employer sanctions?
What aliens are authorized to work?
What are employer defenses to charges of illegal hiring?
How can employers comply with I-9 (verification) requirements?
What documents are acceptable proof of identity and work authorization?
What penalties do employers face?
What to do if the INS or DOL asks to inspect your records.
What to do in case of an INS raid.

-- The Anti-Discrimination Provisions
What employers are subject to the anti-discrimination law?
What kind of employer conduct is covered?
What aliens can file a claim under Section 274B?
What is national origin discrimination?
What is citizenship discrimination?
How to file a discrimination charge; penalties and awards

Chapter 9 ESL/Civics: Responding to the Needs of Immigrant Workers

-- Empowerment Issues
-- Competency Based Education

Chapter 10 "Teach the Students, Not the Book": A Curriculum Guide

-- Overview
-- Developing an Amnesty Preparation Program
-- Designing the Instructional Component
-- Developing Courses that Meet Student Needs
-- Curriculum Recommendations
Part One: ESL and Civics for Certificate Students
Language Skills for Legalization and Community Participation
English for Legalization
Learning Activities
Practical Civics/Discussion Units
English for Community Participation
Setting Program Standards
Documenting Progress
Establishing a Responsible Program Policy on INS Monitoring
Part Two: Green Card English and More: a Curriculum for INS Test Takers
English for Legalization
Citizenship Component
Developing Test Taking Strategies
Developing Coping Skills for Interview Situations

Chapter 11 Still in the Shadows: The Undocumented

APPENDICES:

A. INS Testing: 100 Questions and 20 Sentences

B. Coalitions and Back-up Centers

C. Resources: Bibliographies, Classroom Materials, Curriculum Development, Hotlines, Newsletters, Tests, Legalization Guides, Research, and Videos

D. Regional Processing Facilities and Legalization Offices

E. What Public Benefits Can Legalized Persons Receive?

INTRODUCTION

IRCA, the Immigration Reform and Control Act of 1986, signed into law after a bitter debate in Congress, constitutes the most sweeping change in U.S. immigration law in over 30 years. Designed to control our borders, it is a controversial piece of legislation that contains three major provisions: (1) legalization or amnesty programs which allow qualified immigrants to apply for permanent residence; (2) employer sanctions against employers who knowingly hire "unauthorized workers"; and (3) provisions to protect non-citizens and ethnic minorities from discrimination at the workplace.

The amnesty program has two components, the general legalization program for applicants who have lived in the U.S. since before 1982 (pre-82s) and the Special Agricultural Worker (SAW) program for applicants who have performed seasonal agricultural work for a specified period of time. The general legalization program is now in its second stage (Phase II), a period in which those applicants who successfully completed Phase I of the program and gained temporary residency must meet a second set of requirements in order to gain permanent status. Most significant for many general legalization applicants are the educational requirements that mandate that applicants who are not exempt must either take an English and civics test or attend an INS approved class that teaches English language skills and provides "knowledge of U.S. history and government." If these Phase II requirements are not met, applicants revert to illegal status.

Failure to meet the Phase II requirements will not only result in personal tragedies for applicants and their families, it will significantly impact the economic future of the U.S., especially in states like California where 50% of the applicants reside.

There now have been a number of studies (see Chapter 5) that show that the U.S. economy is dependent to an ever increasing degree on immigrant labor, not only to fill its traditional entry level and non-skilled positions, but also to provide the skilled labor that will keep the country competitive in a changing, technology based future. To help immigrant workers meet the requirements of IRCA not only makes sense from a humanitarian point of view, it makes economic sense as well.

Besides those three million immigrants who because of IRCA will be allowed to work legally in the country, there is a sizable segment of the immigrant population that did not qualify, remains undocumented, and is increasingly in danger of becoming the new underclass, unable to secure work or social services. Already we find increasing violations of minimum wage and health and safety violations in the workplace, and in some states, there are legislative moves underway to bar the undocumented from all state benefits and services except emergency medical services. The situation of the undocumented requires consideration. The vast majority are here because of violence or economic despair in their home countries, and they will not simply leave and go home. Furthermore, there is an ongoing demand for their labor in the United States. Their continued presence requires

both advocacy for humane treatment and efforts to create viable stratagies that allow the undocumented to live and work in this country.

As we implement Phase II of the legalization program and look ahead at the future for both those who are becoming legalized and those who have been left out, we face four major challenges:

1. To monitor IRCA and ensure fair implementation of all aspects of the law, with special emphasis on the educational requirements and the non discrimination provisions.

2. To provide services that allow for the social, political and economic integration of amnesty applicants into the larger society.

3. To develop the kinds of educational programs that facilitate legalization and help transition applicants from English/civics classes to employment training, vocational education and pre-academic programs.

4. To create new mechanisms that ensure services for and protection of the undocumented.

No one agency alone can hope to address all the short term legalization and the long term employment needs of the amnesty applicants. Neither can any one service provider hope to alleviate the myriad social and economic needs of the undocumented. To address these concerns in their totality a partnership approach is needed - a model for collaboration that involves advocacy groups, coalitions, educational agencies, churches, and community based organizations, along with industry, labor and the immigrant workers themselves.

This handbook is designed to provide information, insights and ideas that need to be considered in the formation of such partnerships. It will provide information on the details of the IRCA, show how co-operative efforts can be established and outline strategies for meeting the special needs of amnesty applicants in the work force.

NOTE: This handbook will concentrate on the Phase II process for applicants under the general legalization program. Applicants under the SAW farmworker program will go through a much simpler Phase II process, which does not include an educational requirement. The SAW Phase II program is discussed in Chapter 2.

Chapter 1

Overview of Educational Requirements

BACKGROUND

In order to obtain permanent resident status and receive a "green card" under phase II, legalization applicants must submit an application on time and fulfill several requirements. The most complex of these is the educational requirement. To fulfill it, general legalizaton applicants who are not excepted must either attend an approved class on English and civics for at least 40 hours, or pass one of a few tests offered on those subjects. Some applicants will choose to do both.

General legalization applicants who fail to submit an application on time or who do not meet the educational or other requirements will revert to illegal status and will once again be vulnerable to deportation. One of the most serious problems facing applicants trying to complete phase II is lack of information. Many applicants do not know that there is a phase II or an educational requirement; others have heard of the program but do not understand the requirements. This chapter will discuss the educational requirement in detail. Other requirements for the general legalization and the SAW programs are discussed in Chapter 2.

There is a great deal of concern that a significant number of those eligible to apply for permanent residency will, for whatever reasons, not be able to complete the legalization process within the required time limit. Employers, unions, IRCA coalitions, community-based organizations (CBOs) and educational agencies can join efforts in helping to make sure that all eligible applicants have the opportunity to meet the Phase II requirements and gain permanent residence status.

Simple multi-language fliers are available from coalitions. See Appendices C and D for a list of coalitions and resource centers.

A few facts about the educational requirement deserve to be highlighted.

IMPORTANT FACTS ABOUT THE EDUCATIONAL REQUIREMENT:

1. No one needs to pass a test to qualify. Instead of taking a test, applicants may go to an approved amnesty class for 40 hours and receive a Certificate which will be accepted in place of a test. An applicant with a Certificate does not need to demonstrate any further knowledge of English or U.S. history and government.

2. A significant number of applicants do not have good English language skills or cannot read and write. They may believe that this makes them ineligible for Phase II.

These people definitely can qualify by attending a 40 hour class. Many amnesty classes are geared for students who are non-literate or speak little or no English.

3. Students with better English and literacy skills may decide to take a test to pass the requirement. They can do this along with or instead of taking an amnesty class.

4. Applicants must file the Phase II application within their individual deadline, even if they have not yet completed the educational requirement. The INS will not accept late Phase II applications. It is OK to file the application and then work on fulfilling the requirement.

Joint efforts and co-operation are needed to ensure that all eligible applicants will be able to complete the educational requirements. In support of that goal agencies need to work together so that applicants:

* receive up-to-date, correct information on IRCA requirements

* are referred to classes that are easily accessible and affordable and provide necessary support services such as referrals to other agencies (including low cost legal aid) counseling, and appropriate child care and/or transportation assistance;

* receive the kind of civics and ESL instruction that supports legalization and prepares students for ongoing education and employment training.

* are taught the communication skills and interaction strategies necessary to access services, get up-to-date information, and progress beyond "gate keeping" points such as the INS appointment and/or the 312 interviews.

In addition, joint efforts are needed to protect the still undocumented who will be even more powerless and vulnerable and whose lives will become increasingly difficult and complex.

FULFILLING THE EDUCATIONAL REQUIREMENT

With some exceptions, every temporary resident in the general legalization program must fulfill an educational requirement in order to qualify for permanent residency. (This does not apply to temporary residents in the SAW or farmworker program, discussed below. They may attend the free English classes, but they are not required to in order to obtain permanent residence.)

Some temporary residents in the general legalization program do not have to fulfill the educational requirement, because of age or disability. The requirement is waived for:

* persons who are 65 years or older or 15 years or younger at the time they file the permanent residence application;

* persons who are over 50 years old and can show that they have lived in the United States for at least 20 years;

* persons who cannot meet the requirement because of a physical disability (automatic waiver) or a developmental disability (discretionary waiver). These people must submit evidence of the disability and how it prevents them from meeting the requirement.

Otherwise, temporary residents must meet the requirement in one of three ways:

(a) by attending at least 40 hours of a 60 hour approved course on English and civics;
(b) by passing a test on English and civics; or
(c) by showing that they have already had sufficient education in those subjects in the United States.

NOTE ON TIMING: As stated above, it is not necessary to fulfill the educational requirement before submitting the phase two application (form I-698): the most important thing is to submit the application on time. Applicants may present proof fulfilling the educational requirement at any of three times: when they submit the I-698 application by mail; at the time of the INS interview; or after the INS interview if they take and fail the INS English/civics test. **But applicants should begin <u>now</u> to fulfill the English/civics requirement.** Many people will need extra time to fulfill the requirement because amnesty classes will not be immediately available or they will find they need a lot of time to prepare for a test.

The three ways to fulfill the requirement are:

<u>1. Attending a class</u>

Many applicants will choose this option. It is especially useful for people who do not have strong English and literacy skills or experience in test-taking.

The student must attend at least 40 hours of a 60 hour course on English and civics. "Civics" is defined loosely: it may include traditional subjects in U.S. history and government, or it may cover "practical civics" topics such as how to use bank accounts and read bus maps. The course must be approved by the INS. The INS does not require students to pass a special test to "graduate" after 40 hours, but only to demonstrate some progress according to their own ability level. However, some schools may impose tests.

After attending class for 40 hours, the student should request a "Certificate of

Satisfactory Pursuit" from the school. The student can present the Certificate to the INS in complete fulfillment of the English/civics requirement: he or she cannot be required to demonstrate any knowledge of English or U.S. history and government at the INS interview. The student may submit the Certificate by mail with the application form, or bring it in person to the INS interview.

Public schools, community agencies, businesses, unions, churches, and other groups can administer amnesty English/civics courses. The description of the curriculum and goals of these courses are discussed in Chapter 11. We strongly encourage employer or union participation in organizing a course on-site, or in assisting workers to locate good quality courses in their area. Courses are funded through a special state/federal grant under the SLIAG (State Legalization Impact Assistance Grant) program, so that most courses are free to students.

To find courses in your area, call an immigration coalition or hotline, or contact the INS. See Resources.

WARNING: Time is running out! Students who wish to take a course should sign up as soon as possible. In some areas where thousands of applicants will need to take a class, amnesty courses are closing down for lack of students. By the time these students come forward, there may not be enough classes to handle them. Please encourage amnesty applicants in your area to come forward now so that they be sure to fulfill this requirement.

2. Taking a Test

Instead of or along with taking a class, students may decide to meet the English/civics requirement by taking a test. Currently three tests are available: the INS interview exam, the ETS standardized exam, and the INS videotape exam. All of the tests are given in English, and all test knowledge of U.S. history and government. Passing any test will fulfill the English/civics requirement for permanent residence.

People who pass either the INS interview exam or the ETS standardized exam gain an extra benefit. If they decide to apply for U.S. citizenship in the future, they will not have to take another English/civics exam at that time. The INS videotape exam counts just for permanent residence, not citizenship.

Applicants who think they might be able to pass an exam, but are not confident, should enroll in an exam preparation course which is authorized to issue a Certificate of Satisfactory Pursuit. That way they can get the citizenship benefit if they pass the exam, while if they fail they can use the Certificate as a back-up means of qualifying for permanent residence.

The INS test is given at the INS permanent residence interview. The other tests may be taken before the interview, or afterwards if the person fails the INS test and

requests a second interview.

The INS interview exam (the "312" test). This oral test is given by the INS examiner at the time of the permanent residence interview. The examiner will select ten questions from a published list of 100 questions on U.S. history and government. A passing score is six correct answers. The person also must write some dictated sentences in English. (See Appendix for the 100 questions and for sample dictations.)

Applicants who fail the exam may either (a) request that they be given an appointment in six months or sooner to try it again, or (b) immediately present a Certificate of Satisfactory Pursuit. In other words, it is all right to try the exam and, if you fail, use the Certificate as a back-up on the same day.

Applicants who fail to pass the INS test on the first try may sign up to try it again, but they should not rely on passing the test. There is no specific provision in the regulations allowing a person more time to pass after they have failed the INS 312 test for the second time. Applicants must enroll in a Certificate class or fulfill the requirement by other means before their second INS test appointment. Groups who give Certificate classes should give first priority in seating to persons who have already failed the INS test once.

Applicants who think they might want to take the INS interview exam should mark the first box in section A of question 18 on the application form I-687.

The ETS standardized test. The Educational Testing Service has developed an approved test for legalization. The test is administered by certain schools and community agencies. Contact a local coalition or hotline (see Appendix) to find out where the test is given in your area.

The advantage of the ETS test is that applicants may take it as many times as they need to pass, and it is given at a school or community center instead of at the INS office. The test has 20 questions, and 12 is a passing score. Persons who do not pass may immediately take a second test. If they do not score 12 correctly on the second try, the two scores are added together and a total of 20 will pass. Applicants must also write a short sentence in English. Only passing scores are reported to the INS. The test costs $10, including the second try.

Note that while the ETS questions cover basic U.S. history and government, they are not all taken from the list of 100 questions used in the INS interview test.

The INS videotape test (the "proficiency" test). A third test, filmed on videotape, is administered at some INS offices and community agencies. Contact a local coalition or hotline to see where the test may be taken. It consists of 15 multiple choice questions, and 9 is a passing score. The questions appear on the screen and are read aloud. There is no writing requirement, but the applicant must state that he or she studied for the test for at least 40 hours. Since applicants are required to

"bubble in" the correct answer on the scantron sheet the test is not appropriate for non-literate students.

This test is supposedly the easiest of the three. A passing score **fulfills the requirement for permanent residence**, but, unlike the other tests, **not for citizenship.** This test may be useful for people who are not now concerned with applying for citizenship, and do not have the time or opportunity to earn a Certificate at an approved course.

Other exams. States and state agencies may also create exams. For example, CASAS in California may offer an exam, approved by the INS, which will satisfy both the permanent residence and U.S. citizenship English/civics requirement. Persons taking state exams may have to declare that they studied for 40 hours.

3. Showing Prior Education in the United States

In some cases the applicant can fulfill the English/civics requirement just by submitting proof of past education in the U.S. The applicant must have:

* graduated from a U.S. high school;

* earned a G.E.D. certificate (if the certificate was earned in a language other than English, the person must also have passed the G.E.D. English proficiency section); or

* attended a state accredited school in the U.S. for one academic year where the curriculum included at least 40 hours of U.S. government.

The applicant should submit a certified copy of the diploma, school record or transcript.

HOW TO FULFILL THE EDUCATIONAL REQUIREMENT: CASE EXAMPLES

1. Luisa can speak some English and read and write in Spanish, but is not literate in English. She should attend an approved amnesty class which can help her improve her skills to the level where she may try to take a test. If she can't pass a test, or does not want to try, she can use the Certificate from the class to qualify. If she might want to take a test at the INS interview, she should check the first box under section A on question 18 of the phase II application form, and not send in her Certificate with the application.

At the INS interview Luisa may either present her Certificate, or ask to take a test. If she does not pass the test she may either hand in her Certificate immediately or ask to take the test again. She can request a testing appointment six months or less in the future.

2. Tomas speaks hardly any English, and cannot read or write in Spanish. He should attend an approved amnesty class, if possible one where he can learn beginning literacy and English, and survival skills. Civics discussions in such classes can be in Spanish or English; they may cover traditional topics in U.S. history and government as well as "practical civics" topics, such as tenants' rights, the immigrant experience, or how to obtain public services. As with all amnesty students, Tomas may be allowed to continue to take free classes past the first 60 hours, depending on the school's resources.

Tomas can mail his Certificate in with his phase II application. If he does this he will mark the first box under section B on question 18 of the phase II application form. Or, he can mail in the application first and bring the Certificate to the INS interview. If he plans to do this he will mark the second box under section A, question 18 of the form.

Whichever he chooses, Tomas will not be required to speak English or take a test at the INS interview.

3. Maria Coralia can speak, read and write English fairly well. She has three children and works full time at a hospital. She may decide that she does not have time to take a class, and wants to take a test instead. If possible she should take the INS 312 test (given at the interview) or the ETS test instead of the INS proficiency test, so that a passing score will qualify her for permanent residence and future U.S. citizenship at the same time.

If she plans to take the test at the INS interview Maria will study the 100 questions and 20 dictations (see Appendix). If she does not pass the interview test, she can request to be retested in six months or less. At that time she can take the test or present a Certificate from a class.

4. Linda is retarded; her sister Anna is 18 years old. Linda should get legal counseling to see if she should apply for a waiver of the educational requirement because she has a developmental disability, or if she should attend class. (Attending a class is a legally "safe" option, but it may be unsatisfactory for Linda or difficult for the class if they are at a different level.) Anna is not waived from fulfilling the requirement, because she is over 15 years old. However, she can fulfill the requirement without taking a test or going to another class if she shows she attended school in the U.S. for one year and studied 40 hours of English and history and government, or graduated from high school or G.E.D. course in the U.S.

Chapter 2

What the Law Says: The Legalization Programs

The Immigration Reform and Control Act of 1986 created three separate programs, representing a compromise between competing factions in Congress and society. They are: the legalization programs; the employer sanctions program; and the provisions against employment discrimination. This chapter will focus on the legalization programs. Information about the employer sanctions and anti-discrimination programs is found in Chapter 8.

Under the **legalization** or **amnesty programs**, undocumented persons already living in the United States were able to apply for lawful immigration status. By granting them legal status, Congress intended to bring these residents "out of the shadows" and into fuller participation in society. Nearly three million people applied for lawful temporary residence in the first phase of the program. These temporary residents now must apply for permanent residence in phase II of amnesty.

Employers and unions have a strong interest in assisting their workers to complete legalization. Without legalization and continuing work authorization, the workers cannot be legally employed. Also, employers and unions can gain workers' trust by offering them help in this critical area of their lives. Workers who attend English/civics/literacy classes to qualify for legalization will become more valuable employees.

Chapters 3 and 7 discuss how employers and unions can help workers complete legalization by sponsoring application "fairs" or small group workshops put on by community counselors; by sponsoring or locating English classes; by distributing bi-lingual leaflets about amnesty; by distributing information about local hotlines, schools and community agencies; and by becoming familiar with the program so that they can answer basic questions.

If you cannot remember anything else about amnesty, remember this:

Applicants under the general legalization program have to submit a phase II application by a certain deadline and fulfill an English/civics requirement. They should not leave the U.S. for more than 30 days on any one trip or 90 days on all trips taken as temporary residents. They need immediate amnesty counseling if they are arrested or have received any public assistance since becoming temporary residents. Some applicants must take an HIV (AIDS) blood test; people who test positive qualify for amnesty, but they need legal as well as medical counseling.

Even applicants who don't have any of these problems should get help with the application from a low-fee community agency before submitting it to the INS. Just a small error on the application form could cause months of delay or even a wrongful denial of the application. As an employer, a union representative or an educator, you can help put amnesty applicants in touch with such agencies.

A. OVERVIEW OF THE LEGALIZATION PROGRAMS

There are two amnesty programs. The general legalization program is for persons who have lived in the United States since before January 1, 1982. The Special Agricultural Worker, or SAW program, is for persons who worked in agriculture for at least 90 days between May 1985 and May 1986.

Both programs have two phases. In the first phase, undocumented persons applied for lawful temporary resident status. They submitted an application and went to an interview at an INS office, where they received an interim work authorization card (marked I-688A). When the application was approved they received a notice in the mail to pick up the temporary resident card (marked I-688).

In the second part of amnesty, often referred to as phase II, temporary residents must submit an application for lawful permanent resident status, i.e. to get a green card. The phase II requirements are quite different in the general legalization and the SAW programs. Legalization temporary residents must fulfill the education requirement, apply by a certain deadline, and meet other requirements. If they fail to do this they will lose legal status and be out of the amnesty program. Most of this chapter and handbook concentrates on phase II legalization. In contrast, it appears that phase II for SAWs will be much simpler; that process is discussed in the last section of this chapter.

Determining where an applicant is in the process: two phases and three cards.

You can understand where someone is in the amnesty process by examining his or her laminated amnesty card. If "245A" appears on the card, the person applied under the legalization program; if "210" appears he or she applied as a SAW.

Both programs create the same three cards. The first card applicants receive is marked "Work Authorization," has a red stripe, and is labeled I-688A. A person holding this card applied for temporary residence and went to the INS interview but has not yet received a decision. He or she needs to find out why the case has not yet been decided.

Next applicants receive the Temporary Resident Card. It has a green stripe and is

labeled I-688. A temporary resident with an I-688 card has completed phase I and needs to submit the phase II application.

The third card is the lawful permanent resident card or "green card." This may be an I-551 card with blue markings, or the old temporary residence card with a sticker on the back showing permanent residencey. A person holding this card has completed legalization and does not have to make other applications.

B. PHASE II LEGALIZATION: REQUIREMENTS FOR ELIGIBILITY

Persons who obtained temporary residence through the general legalization program -- because they lived in the U.S. since 1982 -- must go through a second full scale application process to obtain permanent resident status. Each applicant must meet five requirements. He or she must:

* submit a completed application form with fee and supporting documents;

* submit the application within a deadline: the deadline is two and a half years after the date the person's temporary residencey application was approved;

* fulfill the educational requirement, by attending a class or taking a test on English and U.S. history and government;

* not travel outside the United States for more than 30 days any one trip or 90 days in total during the period of temporary residency; and

* not fall within one of the "grounds of exclusion" or categories of people who are not allowed lawful admittance to the United States. This may affect persons who have been convicted of a crime, received public assistance, or not yet taken an HIV virus (AIDS) blood test.

We'll examine each requirement in more detail.

<u>1. Submit an application form with correct documentation.</u>

Every temporary resident in the general legalization program, whether child or adult, must submit a Form I-698, application for permanent residence. It is critical that the form be correctly completed since the first stage of the application is done entirely by mail and mistakes may cause delay or even a wrongful denial. With the form, the applicant should send:

* filing fee of $80 per person (or $240 per family), in the form of a postal money order, money order or cashier's check made payable to "I.N.S.";

* one color "green card" photo;

* a medical examination on form I-693 with results of an HIV (AIDS) blood test, only for those people who took their medical exam for the first phase of legalization before December 1, 1987 (see section E, below);

* Certificate of Satisfactory Pursuit or other evidence of fulfilling the English/civics requirement, if it is available; and

* completed INS change of address card, if the person changed address since submitting the application for temporary residence.

This is what is required in a simple case, with no criminal or welfare problems or over-long absences from the United States. People with more difficult cases must seek counseling and will need to submit other documentation.

Warning: With millions of people submitting applications by mail, it is certain that the INS will lose some applications. **Applicants must be sure to make a copy of all documents they submit, and to mail their application packet certified mail/return receipt requested.**

2. Submit the form within each person's individual deadline.

Each temporary resident under the general legalization program has an individual deadline by which the phase II application must be submitted. If the person does not apply by the deadline he or she loses legal status and is out of the amnesty program. No late applications will be accepted.

The rule is that the phase II permanent residence application must be submitted within two and a half years of the date the person's temporary residence application was approved. It can be submitted beginning anytime after the approval.

EXAMPLE: Mary applied for lawful temporary residence in 1987, and her application was approved on September 28, 1988. She can apply for permanent residence anytime up to March 27, 1991. If she applies on March 28, 1991, her application will not be accepted.

Sounds simple? The problem is that it is often difficult to find out exactly when the person's temporary application was approved, so that you can begin counting the two and a half years. Ways to determine the date are:

a. See if the person still has the INS notice of approval for temporary residency (most don't, because the INS takes this form when they pick up the temporary resident card). Or, help the person remember about when they received the notice.

To be safe, count back a few months from the date in case INS delayed in sending out the notice after approving the application.

b. With the applicant, contact the appropriate Regional Processing Facility (RPF). See Appendix. Give them the applicant's name and alien number, which is the number on their amnesty card beginning with A 9. The RPF should tell you the deadline.

c. Look at the expiration date of the amnesty card. This date is not exact: a person's deadline to apply could well extend several months after the expiration date. However, you can have confidence that an application submitted before the expiration date will be on time.

Temporary residents who have "clean" cases should submit their applications as soon as possible; if possible, they should get a community agency to review or help them with the application. Residents who have criminal convictions or other kinds of complex cases may have to delay submitting their application in order to expunge the conviction or resolve other problems. They must find out exactly when the deadline is and obtain counseling from an agency or attorney.

3. Fulfill the Educational Requirement

The educational requirement is discussed in detail in Chapter 1. Some important points should be reviewed here:

a. Some legalization phase II applicants do not have to fulfill the requirement. They include: people who qualify for waivers because of young or old age, or physical or developmental disabilities; and people who have already obtained some education in the U.S. The requirement does not apply to SAW applicants.

b. Other applicants must either take a test or attend an approved amnesty course for at least 40 hours to qualify for phase II. Some may choose to do both. People who are not literate or cannot speak English may qualify for phase II by attending an amnesty course for at least 40 hours. They should look for a course designed for non-literate people.

c. After attending an approved course for 40 hours the applicant earns a Certificate of Satisfactory Pursuit. The Certificate may be mailed in with the application, or submitted at the INS interview. No one who chooses to hand in the Certificate can be made to take an English or civics test; they have already met the educational requirement by earning the Certificate.

d. The phase II application can be submitted without a Certificate. People who might otherwise miss their phase II application deadline, or who would like to take the INS interview test, should mail the application without a Certificate. The most important thing is to submit the phase II application on time.

e. An applicant may choose to take one of three tests, instead of or along with attending a class. The tests are discussed in Chapter 2.

4. The continuous residence requirement: the 30/90 day travel limit

People who have their temporary resident card are allowed to travel outside the United States. However they must limit the amount of time they are gone in order to remain eligible for permanent residence.

Temporary residents under the general legalization program cannot be absent from the United States for more than 30 days on any one trip, or 90 days on all trips added together. Count absences from the date the temporary residence application was submitted to the date the permanent residence application is submitted.

There are exceptions to this rule. A temporary resident who stayed outside the U.S. for more than the 30/90 day limit can still qualify for permanent residence if he or she can show that the delay in returning was caused by "emergent reasons or circumstances beyond his or her control." In other words, the person must show that he or she meant to come back within the time limit, but could not because of an unexpected event or delay. The reason could be an emergency such as lingering illness or death of a close relative, or earthquake, transportation strike, loss of money to return home, illness of a child, and other reasons. The INS is fairly liberal on the reasons. The circumstances should be thoroughly documented.

Even people who cannot show "emergent circumstances" should be able to qualify for phase II just by showing that they did not abandon their residence in the U.S. while they were gone. They will need legal help with their case.

EXAMPLE: Since applying for amnesty Jose took three trips to Mexico to visit family. He stayed for 30 days, for 18 days and for 14 days on these trips. He is within the 30/90 day rule.

Andrea went to El Salvador to visit her sick mother. Her mother's illness was serious and Andrea was forced to remain in El Salvador for three months. She then needed to stay for another month to arrange care for her mother's godchildren. Andrea must present medical documents and declarations from others to show that she could not return home earlier. She should go to a community agency or lawyer to get help to do this.

Raquel went to Guatemala for two months to visit her family. She needs legal assistance to try to prove that she did not "abandon her residence" in the U.S. while she was gone.

Warning: Applicants who may have stayed outside the U.S. over the 30/90 day limit must see a trained legal counselor to help prepare their application and documentation. People who did not have an emergency reason to overstay especially need legal assistance.

The Grounds of Exclusion: Crimes, Welfare and HIV Testing.

To qualify for permanent residence, temporary residents in the general legalization program must show that they are "admissible" as immigrants to the United States. This means that they must not fall within one of the thirty-three grounds of exclusion in the Immigration and Nationality Act. They also must not have been convicted of three misdemeanors or one felony.

The most important help you can give your workers or students who might fall within one of these grounds is to help them find legal counseling. The following people may still qualify for phase II, but definitely should seek help from a community legal agency or lawyer:

* anyone who has been arrested by the police since applying for temporary residence, or who was arrested before applying and might have been convicted after applying;

* anyone who has two or more misdemeanor convictions or a felony conviction;

* anyone who has received public assistance, or whose children have received public assistance, since applying for temporary residence, or who received a waiver for "public charge" in the temporary residence application;

* anyone who tests positive for the HIV virus (related to AIDS).

Note on HIV testing: All applicants had to submit a complete medical exam as part of the temporary residence application. But people who took their medical exams before December 1, 1987 did not undergo a blood test for the HIV virus (AIDS). Those people must get HIV blood tests now, and the test must be administered by doctors approved by the INS. To get a list of approved doctors in your area, contact the INS or a local coalition or hotline.

Applicants may not remember whether they took their medical exam before or after November 1, 1987. One rule of thumb is that if the issue date on the temporary resident card is before December 1987, the person did not take an HIV test. Applicants do <u>not</u> have to take a complete medical exam (which costs from $65-$90); they only need to take the HIV test (around $25).

Applicants who test positive may still qualify for legalization. They should be referred to a community agency, who will help them find confidential retesting to check for a false positive, AIDS counseling, and legal counseling. Obviously, such

people should be treated sensitively. In their worry over their medical and legal situation, they may need extra help from you to find competent referrals.

C. PHASE II LEGALIZATION: PROCEDURE FOR APPLYING

There are three steps to the application procedure for the general legalization program.

1. **Mail the completed application**, documents and fee to the Regional Processing Facility (RPF) which has jurisdiction over the case. The addresses and jurisdictional limits of the RPFs are provided in the Appendix E.

The packet should be mailed certified mail/return receipt requested, and copies should be made of everything that was sent. This is necessary to protect the applicant, as the RPF will definitely lose some applications.

2. **The RPF will respond by mail**, probably in English. It will send one of two things. In most cases, the RPF will send a NOTICE FOR AN APPOINTMENT AT THE NEAREST LEGALIZATION OR INS OFFICE.

But in cases where there may be a problem, or where a completed application was not sent, the RPF may send a FORM I-72 REQUESTING MORE DOCUMENTS. An applicant who receives this form must immediately contact a community agency or lawyer for help in understanding the problem and gathering the documents to mail back to the RPF. The applicant must respond within 60 days. Once the problem is cleared up, the RPF will send a notice for an appointment at a legalization office.

3. **The applicant will go to a legalization office for the permanent residence interview.** At the interview, an officer will go over the information on the form and decide the case. Applicants who wish to may take an English/civics test at the interview. Applicants who are not going to take a test do not have to speak English at the interview, and may bring a friend or family member to help translate during the interview. Some applicants who filed complete cases with the RPF may not even have an interview, but will just be fingerprinted and processed to receive the card.

The applicants will receive a sticker for their temporary resident card showing that their case has been approved. The permanent residence card will arrive in the mail within a few months.

D. PHASE II IN THE SAW PROGRAM

Temporary residents who legalized under the Special Agricultural Worker or SAW program will have a much simpler time adjusting to permanent residence than those in the general legalization program. The following are important facts about the SAW program:

* SAW temporary residents do not have to meet an English/civics requirement in order to adjust to permanent residence. However, they are entitled to attend free SLIAG-funded English/civics classes.

* SAW temporary residents do not have the 30/90 day restriction on travelling. However, they should seek counseling if they plan to be outside the U.S. for several months or close to a year.

* SAW temporary residents do not have an individualized deadline to apply for permanent residence. Most SAW temporary residents will "automatically" become permanent residents on December 1, 1990. Other SAW temporary residents, who were able to prove that they worked 90 days in agricultural in 1984, 1985 and 1986, will gain permanent status on December 1, 1989.

* Under current regulations, in order to obtain a permanent resident card a SAW applicant must appear at a legalization or designated INS office and file a form I-90, pay a $15 filing fee, and submit proof of identity, two photographs made up to "green card" specifications, and fingerprints. The person may appear after the date of adjustment, or before the date upon the invitation of the INS. It is not known if the regulations will change in the future in response to the new requirements for SAWs discussed below.

* Under a law passed in December 1989, SAW phase II applicants are subject to the grounds of exclusion and are disqualified if they are convicted of three misdemeanors or one felony. Previously this did not apply to them. Many SAW applicants (and some legal workers) might not be aware of this rule. Persons who have three misdemeanors or one felony conviction or who have been arrested since applying for SAW temporary residence should seek legal counseling.

E. THE FUTURE: ELIGIBILITY FOR UNITED STATES CITIZENSHIP

In a few years we may see hundreds of thousands of amnesty participants apply for U.S. citizenship. A permanent resident is eligible, but not required, to apply for U.S. citizenship beginning five years after receipt of permanent residencey (for amnesty applicants, the five years begin as of the date they file the phase II application). While many amnesty permanent residents may decide to keep their own citizenship, others will want to obtain U.S. citizenship as soon as possible, partly so that they can more quickly immigrate their close family members.

With few exceptions, all permanent residents must pass an English and civics test to acquire U.S. citizenship. There is no 40 hour class attendance as an alternative. Thus, in a few years schools may see their amnesty students returning to them -- and this time, the students must take the time to acquire functional English and basic literacy skills as well as knowledge of U.S. history and government sufficient to pass a test.

NOTE: WOULD YOU LIKE COMMUNITY LEGALIZATION COUNSELORS TO COME TO YOUR SCHOOL OR WORKSITE TO HELP WORKERS MAKE THEIR PHASE TWO APPLICATION?

You can provide an important service to your workers by putting them in contact with competent, low cost assistance with their legalization application. Many temporary residents are confused and intimidated by the requirements of phase II. To meet this need, staff from many non-profit community agencies have agreed to come to worksites and schools to help applicants. They may meet with applicants in small group workshops, or hold a legalization "fair" where people can drop in for assistance. They will provide information, help complete applications, and screen out people who need special legal assistance. Depending on the program, the applicant may pay a small fee of up to $20, or it may be free of charge.

Please consider working in cooperation with trained counselors from the community. It will increase the number of workers at your site who get their permanent legal status. To find qualified agencies in your area, call an immigration coalition or assistance line near you. See Resources and Coalitions in the Appendices. For other suggestions see Chapter 6.

Chapter 3

Getting Help: Working with Coalitions, Hotlines and Non-Profit Legal Agencies

Of all the problems faced by legalization applicants, the greatest is lack of information and competent advice. A significant number of temporary residents do not know that they must file a phase II application or fulfill an English/civics requirement to keep their new legal status. Others believe that if they are not literate or cannot speak English they shouldn't even bother to apply. There has not been sufficient publicity about the basics of the second phase of legalization.

Once people understand that phase II exists, they face a second problem. Although the application form itself appears simple, many aspects of phase II involve complex rules which frequently change. For example, it is extremely difficult for an applicant to determine his or her own application deadline. People who have been outside the U.S. for over a certain number of days, who have criminal convictions or any history of acceptance of public benefits, whose cases were lost or wrongly decided in phase one, or who tested positive for HIV, need expert legal counseling. Even people with "clean" cases face months of delay or wrongful denial if they do not complete the application correctly.

Beyond that, applicants who look for help are easy prey for unscrupulous persons who provide amnesty services for high fees and do not deliver competently, if at all.

Amnesty applicants may turn to you -- their teacher, employer, union contact or social services provider -- for help in this confusing process. In turn, you can probably get help from a local amnesty coalition or legal agency.

HOW CAN COALITIONS HELP?

In many areas of the country legal agencies, schools and social services providers have formed coalitions to respond to the needs created by the legalization program. See Appendix for a list of some major legalization coalitions.

In the last few years legalization coalitions have provided a tremendous service to many communities. For a sampling of outstanding coalition projects, see "Promising Practices," below.

Legalization coalitions are eager to assist schools, employers, and social service providers. After all, you are in contact with the target population that the coalition wants to reach. Coalitions can provide your program with:

1. Free legal advice and answers to specific questions. Many coalitions include agency lawyers or paralegals who are willing to answer legal questions for free over the phone. The questions can be about the individual case of a student or worker, or about the legalization program generally. They may also advise on the employer sanctions and anti-discrimination provisions of IRCA.

2. Native language materials which you may post or distribute to applicants. Legalization groups have developed flyers, posters, and full-length "novela" comic books in Spanish and English. These cover eligibility requirements, the deadline for applying, receipt of public benefits, the English/civics requirement, advice for people who test HIV positive, and help for family members who didn't qualify for leglaization. Some materials are available in languages other than Spanish and English.

The materials are available for free or at very low cost. You can post them or distribute copies to all students/workers.

3. Access to Hotlines; Referrals to direct more people to your program. Many areas operate multi-lingual "hotlines" for applicants. When you give your student or worker a card with the hotline number on it, you empower them to obtain help for themselves on a variety of issues. Many hotlines maintain a list of amnesty schools and community legal agencies and refer students over the phone. If you are an INS approved school offering free classes, you can be listed with local hotlines for free. Major hotlines advertise their number on bus signs, billboards and through mass leafletting, and receive large numbers of inquiries each week.

The hotline may make referrals for other services besides legalization. These include legal agencies, health clinics, battered women's shelters, AIDS counseling, help with employment discrimination, or help with INS raids. When you give your students or workers a card with a bilingual hotline number, you give them the ability to reach emergency services on their own.

4. Newsletters about important changes in the program and local events. The rules of the legalization program are constantly changing, because of ongoing lawsuits or by federal regulation. Coalition newsletters give regular updates on changes in the legalization program and state SLIAG funding, as well as informing you about local projects and events.

5. Access to information about other issues affecting immigrants. Many coalitions work on issues which affect all immigrants, such as employment issues, programs and services available to immigrants, defense against INS raids, pending legislation, and others.

6. Voice in local state and federal policy. If groups speak together, whether they are teachers, employers, health care workers, or legal workers, they will be better heard. Many coalitions have regular liaison meetings with INS and state health, education and welfare agencies; they provide an excellent forum for working out

problems. Some have worked closely with city and county governments to obtain improved services for immigrants.

7. Perhaps most importantly, you may be able to get direct assistance with applications. Many agencies are willing to come to the school or worksite to help a small group of applicants to complete the form, as well as answer questions and give a talk about the program requirements. Coalitions may hold amnesty "fairs" at a church, campus or workplace, where community agencies provide legal advice and in some areas HIV testing and photographs. Or, counselors may come to a school or workplace to help a class or small group of applicants to complete the form. Applicants pay nothing or a low fee of up to about $20.

PROMISING PRACTICES: A SAMPLING OF COALITION, AGENCY AND INDUSTRY ACTIVITIES

Projects on Women and Self Sufficiency.

1. The Coalition for Women's Development (CWED), in cooperation with local Los Angeles community based organizations, offers technical business training and support for low income women living on welfare because they can't find decent-paying jobs and lack the necessary skills and language to work in the broader economy. CWED's 12 week workshop, conducted in either English or Spanish, allows participants to complete a business plan that they may then use to secure financing and establish their businesses. Exercises about markets, publicity needs, how to keep accurate cash flow books, how to analyze the income necessary to meet expenses and make a profit guide these women to the decision of whether or not they are prepared to give what it takes to be a sucessful entrepreneur. For further information contact Jan Breidenbach at (213) 489-4995 or write to CWED, 315 W. 9th St, Suite 408, Los Angeles, CA 90015.

2. Sin Fronteras of the Minnesota Council of Churches has an emergency loan program for amnesty applicants. The purpose of the program is to make small loans to families in crisis which will allow them to stay off welfare and possible disqualification for phase II. Loans may go to families who could become homeless for lack of a month's rent. Churches who are members of the coalition donated the money to be loaned out. For further information contact Sin Fronteras, Minn. Council of Churches, 122 W. Franklin St. Rm. 230 Minnesota 55404 .

3. The Coalition for Immigrant and Refugee Rights and Services (CIRRS) in San Francisco has a task force on immigrant women. The task force has focused on meeting with and training counselors in family law and domestic violence, rewriting a manual on domestic violence and immigrant women, and conducting a study of several aspects of the lives of undocumented women in the Bay Area. They will work with women and family service agencies on military bases, and work with domestic violence shelters with insufficient bilingual or bi-cultural capacity. For more information contact Emily Goldfarb at (415) 626-2360or write CIRRS at 2111

Mission St., Rm 401, San Francisco, CA 94110.

4. The Projecto Pastoral, led by Father Tom Smolich, has organized a leadership training and development program for low income women. The training sessions address practical job search skills such as filling out a job application, organizing a resume, and interviewing well, as well as how to speak in public, work with ones children more effectively, and generally build confidence and self esteem. The leadership training evolved from the original need of low income women, in particulary the single mothers, to find affordable and safe child care options while they searched for a job. Several of the women were also amnesty applicants and wanted to be gainfully employed to avoid becoming a public charge and endangering their application for legal status. Faced with this need Father Tom organized a "cooperativa" of local mothers who rotate the child care responsibilities while the others look for work. Maria Teixeira, who heads the leadership training sessions, also leads a special training for the women on the "Mesa Directiva" (Executive Board), stressing such skills as how to run a meeting, how to make financial plans and goals for their organization and how to evaluate their responsibilities as board members. For more information about Projecto Pastoral, 171 S. Gless St., Los Angeles, CA 90033 contact Father Tom Smolich at (213) 262-2397.

Bringing agencies on-site to process applications.

1. Several groups around the country have held amnesty fairs at large schools or public places. In Texas, the San Antonio Legalization Coalition, has produced amnesty fairs throughout the San Antonio area. The fairs have been held at schools and shopping malls. Amnesty applicants receive free help with their application, including a talk and question and answer period about the program requirements and assistance in completing the form. Social Security sent representatives to help process requests for valid social security cards. Fairs were held on several weekends in the summer of 1989, and were attended by about 200 persons per day. Contact Elisa May, NALEO, (512) 227-8919.

2. The Coalition for Humane Immigrant Rights in Los Angeles (CHIRLA) conducted free amnesty fairs on city college campuses. Applicants received help with the application form, as well as free HIV testing and application photographs. See Appendix E for address and phone.

3. The Immigrant Legal Resource Center and CIRRS in San Francisco co-sponsor a program in which community agency counselors visit schools and workplaces to conduct self-help small-group processing of applications. Counselors help applicants to fill out their own application in a two to three hour workshop which includes a discussion of legalization requirements, question and answer periods, and a short individual meeting with each applicant. The talk also focuses on empowerment and self-help issues. The program has been successful in pairing classes of literate and non-literate students together in a buddy system to complete the form. Groups range in size from 10 to 60 people. Counselors have led given the workshop to small groups of workers on release time at the job. For further information and a

packet on how to present the workshop, contact Eric Cohen, (415) 853-1600, 1395 Bay Rd., East Palo Alto, CA 94303.

Employer Sanctions and Employerment Discrimination. In San Francisco the CIRRS coalition has conducted a survey of over 400 employers to determine how having to comply with employer sanctions has affected them, and what discriminatory practices may be occurring. Results of the survey will be used to support efforts to retire employer sanctions and/or increase enforcement against discrimination. For a copy of the survey send $5.00 to CIRRS, 2111 Mission St., Rm 401, San Francisco, CA 94110, Attn: Employer Sanctions Survey.

Labor Education. The Labor Immigrant Assistance Project, a project of the AFL-CIO, has several programs for immigrant workers all across Southern California. Currently there are several ESL/Civics courses offered for amnesty applicants. In addition to basic ESL lessons and workplace literacy, the LIAP teaches workers the history of unions, what their workplace rights are and what to do if they feel that these rights have been denied or violated. In addition to classes, which are held at job sites, union halls, or community centers, all students have access to the Labor Learning Center. The LLC allows participants to work at their own pace in an individualized tutorial enviorment. Computer assisted instruction is available and students can work on language, basic skills, workplace literacy, or apprentice training. For further information on the LIAP or for a copy of their "Curriculum Summary," please contact Teresa Sanchez-Gordon at (213) 381-2170 or write to LIAP, Los Angeles County Federation of Labor, AFL-CIO, 515 S. Shatto Place, First Floor, Los Angeles, Ca 90020.

Protecting the Undocumented: Involving Local Government.

1. City sites for safe day-labor pickup. Immigrants and other residents in Los Angeles faced a problem in that day workers had no appropriate place to wait to be picked up by businesses or labor contractors in the morning. Although the labor is critical for the local economy, the workers were frequently raided by the INS. They also created disruption for the private homes or businesses where they waited for work. The legalization coalition in Los Angeles, CHIRLA, negotiated with the mayor's office to actually create seven small public sites where workers could gather each morning. This program has a full-time administrator who is locating and acquiring the sites and will liaison with business and the workers.

How does the program work? At each offical pickup site, two bilingual city workers will list participants' skills on a roster and via telephone will match up laborers with potential employers. The sites will also provide legal advice, information on social services, and English language tutoring. The sites will provide toilets, trash cans, benches and morning coffee. The Los Angeles city council approved the $90,000 program in February of 1989.

Controversey surrounds the program. It is structured to allow city administrators to avoid checking documentation of the right to work legally in the United States,

leaving that responsibility to the employer who decides to hire a participant in the program. The coordinator of that program, Nancy Cervantes, concedes that, while the program is technically legal, "in the eyes of the I.N.S. this is probably a slap in the face." She defends the program as "a local solution to a local issue." Donald B. Looney, the acting district director for the INS in Los Angeles, has stated that employers who utilize the city service could be fined if they have hired workers without checking their documentation and completing proper forms. The undocumented worker could also be detained and deported. Cervantes admits that the sites "are not sanctuaries. If the INS want to come in, they can come it. They know all the corners already." Celia Mata of the Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA) adds, "This will just be another corner, only it will be an organized corner." For more information regarding the program contact Nancy Cervantes at (213) 485-8428 or Linda Mitchell or Celia Mata of CHIRLA at (213) 736-1324.

2. Cities of Refuge. Several cities, often at the request of coalitions, have declared themselves to be Cities of Refuge for Central American and/or South African refugees. A partial list includes Seattle and Olympia, Washington; Fargo, North Dakota; Rochester and Ithaca, New York; Tacoma Park, Maryland; Minneapolis and Duluth, Minnesota; Madison, Wisconsin; Cambridge and Brookline, Massachusetts; and Burlington, Vermont, along with with major cities in California such as Los Angeles, San Francisco, Oakland, Berkeley, Sacramento, Davis and San Jose. Many Cities of Refuge agree not to inquire about citizenship status before providing city services and refuse to allow INS personnel access to jails or police files. In Oakland, California, a group of agencies have at least temporarily halted city plans to construct a new INS detention facility.

Industry Involvement. On March 17, 1989 the Irvine Marriot became the first California private employer to conduct on site testing to qualify employees for phase II of amnesty. The results were so successful that John Masamori, director of Human Resources, has been convincing other Marriott properties to do the same. Masamori credits recruiter Margarita Rebollal for initiating the program and it's success. Already involved in the hispanic community, Rebollal saw the need to serve the needs of their employees, a large segment of whom were amnesty applicants. Many of these applicants were fearful of approaching the INS directly or had been stung by scams fraudently offering a completion certificate for as much as $2,000.

Rebollal contacted the INS to see how they could jointly benefit the workers at Marriott, and with the cooperation of George Apkarian, Director of Outreach for the Western Region, and Delia Ramirez, Regional Agricultural Officer, Western Region, they prepared to offer the tests for interested employees. Essentially the INS provided tests, materials and proctors and the Marriott organized the employees, provided the space for the exam to be taken and allowed their workers time during their shifts to take the exam. For further information about this pilot program contact Margarita Rebollal, Human Resources at (714) 553-0100 or George Apkarian, INS (714) 634-4990.

Chapter 4

Linking Curriculum and Community Concerns

All across the country, educators in charge of amnesty programs are feeling overwhelmed by changing regulations, new legal decisions, and the ever increasing acronyms (EVD, ELAs, NLAs, SAWs, and now RAWs). They are frustrated by student questions that have nothing to do with their ESL/civics lessons. Yet, listening to their students' discussions before class, after class and during break, they have come to realize that the legal, social and economic issues surrounding immigration are at the very heart of their students lives. They are ready for a curriculum that moves community issues and student concerns out of the periphery and into the center of the classroom.

ESL/civics courses, in existence because of historical circumstances and governmental fiat are an ideal setting for examining the socio-cultural realities of immigrant life. While amnesty teachers face certain constraints -- civic lessons must relate to the information in the federal texts -- they are free to design lessons that move student experiences in the foreground while using the more abstract issues of history and government as a backdrop.

But how is this to be done? The first step is to start to listen to our students, hear their personal stories, and try to understand the circumstances of their lives. The second step is to find a coalition willing to share expertise and resources so that teachers and students can work together to gather information, share experiences and address issues. The following ideas for linking curriculum with community concerns have emerged from talking to teachers, immigrant advocates, and community legal workers. While some of the instructional methods require at least intermediate language proficiency, the pedagogical concepts underlying these lessons are valid for all levels. Here, then, are some suggestions:

1. Redefine "understanding of history and government" to include the concept of "participatory action". With your students, explore the idea of "citizenship" and develop examples of community participation at various levels. With your class, explore civic issues and show how local action has often been instrumental in affecting positive change. Discuss examples such as community day care centers, tenant rights organizations and neighborhood crime watch group. Scout your local newspaper for examples of individuals taking charge (e.g. mothers protesting the opening of a porno shop in the neighborhood; neighbors fighting for a stop sign at a busy intersection; young men demanding that the city provide more soccer fields). If you can't find appropriate authentic examples, write up short case studies and discuss the stories with your students. These stories can be presented either orally or in written form and can subsequently form the basis for language development activities (students retell stories, ask questions, make comments, develop vocabulary, make up their own endings, etc.) Keep

in mind that your cases do not need to contain a big solution - or any solution at all. If you carefully listen to your students concerns, future issues will emerge.

2. Treat the classroom as a community. Allow groups of students to discuss such issues as rights and responsibilities of teachers and students and provide an atmosphere where the class can share in the accomplishments of individual members. (Keep in mind that these accomplishments need not be, and indeed should not be, solely the academic kind.) One teacher told us that her class designed a "Bill of Rights" for their amnesty classroom. Activities like these can lead to a discussion of the rights of immigrants under IRCA and the rights of the undocumented under the Constitution. Such lessons can easily become the bridge that links the concerns and experiences of your students to the larger issues of civil rights.

3. Teach history in the form of "thematic units" instead of a sequence of chronological events. As Dennis Terdy has suggested in another context, "start at the end", that is use your students' present lives as the beginning point of history (or herstory) and slowly make the connection to the past. To facilitate discussions of the immigrant experience over time, show pictures and slides (an excellent source are the legalization inserts from the Los Angeles Times and La Opinion and the slides from the Stanford Amnesty Lesson Plan). Using a Language Experience Approach ask your students to tell the story of the people in the pictures or develop role plays in which members of your class have a conversation with the person in the photograph, asking questions such as "Where do you live? When did you come here? Tell us about your neighborhood, your family, your work, you life. What makes you happy, sad, angry, frustrated?" These pictures can be used as a basis for writing activities (e.g. compose a letter to one of the people in the pictures.) To help students make the link between one person's story and the larger historical context, include pictures from the early days of immigration (available in some textbooks such as "America's Story" and from the Library of Congress.) Some students may also appreciate charts and graphs that show immigration patterns over the years and outline the world events that have contributed to the rise and fall of U.S. immigration. (For examples, see back issues of Junior Scholastics)

4. Redefine "civics" so that the "knowledge and understanding of history and government" includes the ability to deal successfully with government agencies such as the INS. Consider making legalization issues the focus of the first forty hours (if you have a mixed class, you might consider conducting work shops on a pull out basis) Using case studies, newspaper stories, amnesty comics or informational videos as a starting point, design activities that allow students to clarify, articulate, and define their own concerns regarding Phase II. Ask students to work in groups and help each other articulate the questions they would like to ask regarding issues such as the application process, work authorization, permission to travel etc; then help them brainstorm strategies for getting answers. Design activities or projects that let your students discover the resources that are available in their communities. (Most areas have immigrant

coalitions that can provide answers to legalization questions, referrals to low cost legal services, and information on job training opportunities. Many coalitions also can put you in touch with guest speakers for your class. An additional source of information are amnesty hotlines like those operated by local immigrant rights groups, the National Association of Latino Elected Officials and the INS. Students may also have neighbors or friends who have gone through the process and are willing to share information - (Teach students to doublecheck information with a reliable source.) Unions (contact the AFL-CIO) are also an excellent source of information and can be helpful in providing speakers, information, and materials related to amnesty in general and employment in particular. (for more information, see Chapter 3.)

Once students have discussed their concerns, prioritized issues, and articulated questions they may be ready to form "expert teams" responsible for making phone calls, perusing bilingual amnesty materials, and inviting guest speakers (sending letters can become a class project). (For more information on expert teams, consult the literature on cooperative learning.)

As time and resources allow, students should have the opportunity to "publish" the stories they have created and the information they have unearthed. Such publication can take various forms, such as one page "Amnesty Questions and Answer Bulletins", "Advice to the Immigrant" columns, newsletters that contain amnesty information of interest to students, "books" of personal immigrant stories and poems illustrated by life charts, photographs and drawings (non-literate students can have their stories transcribed); or even a "Student Amnesty Guide" to be used by the next group of amnesty students who have not yet completed the application process.

Using immigrant concerns and community issues as a central part of the curriculum has a dual advantage: On the one hand, it validates the information gathering and problem solving skills that students bring to class and makes them active participants in the educational process. On the other hand, it allows teachers to do what they do best, structure lessons, guide students and foster language development. In other words, the ESL teacher can remain the "language expert", the person who provides a general framework for the lesson and helps students formulate their ideas in English. The students, for their part, are learning to become "community experts", individuals who are familiar with available resources and know how to access them successfully.

These ideas are hardly new; Freirean pedagogy has long stressed the connection between community and classroom, and texts such as Mary Ashworth's Beyond Methodology stress the need to take education beyond the school house walls. Cummins (1986) through his reciprocal interaction model explains how students can be "disabled" or "disempowered" by a mismatch between school learning and home experience. Lately, research into family literacy programs has shown that the students social reality can be used "as a rich resource that can inform rather than impede

learning" (Auerbach, 1989). What is new, is the reconceptualization of the amnesty curriculum as a sequence of lessons that do not simply transmit information uncritically, but allow students to actively generate knowledge about U.S. history and government through a better understanding of their own role in U.S. society.

References

Ashworth, Mary. Beyond Methology. Second Language Teaching and the Community. Cambridge University Press, 1985.

Cummins, Jim. Empowering Minority Students. Sacramento, CA: California Association for Bilingual Education, 1989.

Freire, Paul. Pedagogy of the Oppressed. New York: Seabury Press, 1970.

Immigrant Legal Resource Center. The Stanford Amnesty Lesson Plan. San Francisco 1989. Contact 1663 Mission St., Ste. 602, San Francisco, CA 94103 (415) 255-9499.

Chapter 5

Newly Legalized Workers and the Changing Economy

THE BIG PICTURE

The amnesty legislation and its effect on the work force needs to be seen within the larger context of a changing economy. Reports such as Workforce 2000, The Widening Divide, and Can California be Competitive and Caring signal some of the shifts we can expect to see in the next 25 years. Let's look at some leading indicators of these changes:

Shifts in the Kinds of Jobs Available -

We can expect a decrease in traditional manufacturing jobs, due to foreign competition, restructuring of jobs, and relocation of jobs overseas. This will be true even in places like California where there is a strong manufacturing base. As industry upgrades and revises its manufacturing methods, many traditional jobs will be phased out altogether. In their place, we can expect an increase in retail businesses and other service related jobs as well as growth in businesses using white collar and high tech employees.

Shifts in Demographics -

In 1985, immigrants constituted 7% of the labor force; between 1985 and the year 2000, the immigrant sector of the labor force will increase to 22%. Workforce 2000, a study by the Hudson Institute commissioned by the Labor Department, predicts that by the year 2000, 21% of all jobs will be highly skilled, 31% will demand a college degree and only 5-7% of new jobs will be entry level or unskilled.

Due to the baby bust of the 1970s, the number of young adult Americans will shrink in absolute terms by 10 to 15% between 1985 and 1995. Simultaneously, the number of prime age consumers and workers between 35 and 45 years of age will increase by 35 % (Source: Orange County Study on the Impact of IRCA.) In general, we can expect non-immigrant households to shrink and grow older, while immigrant households will continue to grow and the population will remain young. The major new entrants in the work force will be women, minorities and immigrants. By the year 2000, only 15% of new entries into the work force are expected to be white male.

Growing Polarity of the Wage Scale

According to two studies by UCLA , "The Widening Divide", and "Can California Be Competitive and Caring", there is a widening disparity between the two ends of the wage scale - well paid high technology jobs on the one end and low skill, minimum wage work on the other. The studies indicate that those workers who traditionally have occupied the low-end and lower middle portion of the scale -- namely women, minorities and immigrants -- fare worse now than they did 20 years ago. Since manufacturing jobs are expected to continue to decline, the outlook for jobs historically held by immigrants is grim.

Fewer Jobs Accessible

While the economy overall may continue to grow, new opportunities may not be available to immigrants. Many companies are choosing to locate in suburban areas away from the urban environment where many immigrants live. Since suburban environments tend to be more racially segregated, homes expensive, and transportation often not feasible these jobs often are not accessible to the immigrant population living in the inner cities.
Note: The above section is based in large part on information provided by Linda Wong, executive Director of California Tomorrow.

CHANGES IN THE WORKPLACE

Along with the changes in the larger economy, there are changes in the U.S. work place that affect industry, labor and education along with the immigrant workers themselves.

Technological Innovations to Increase Productivity

In response to domestic pressures for quality and challenges to global competitiveness, industry is upgrading and revising its manufacturing methods. Companies are introducing automation and computer operated machines to speed production and increase cost effectiveness. To cope with these innovations, workers must not only have the math and literacy skills required to understand and run sophisticated machinery, but they must also develop the basic skills needed for necessary retraining and possible job changes.

Although some job changes are predictable, others are not. To deal with innovations and future challenges, workers must develop the global skills and over all proficiency needed for ongoing training. Flexibility, and "learning how to learn" will be important skills to supplement literacy knowledge. There are many indications that industry does not demand "trained" people as much as it requires employees who are "trainable", that is workers willing and able to update their present knowledge and

acquire new concepts.

If entry level workers are to produce work to written specifications, monitor production, and prevent errors, they must be able to understand written instructions such as manufacturing orders and be able to interpret graphic displays analyzing output.

Shifts in the Labor Pool

The demands for a more skilled work force are in conflict with the pool of new workers available to do the job, predominantly minorities, women and immigrants. In many ways, these new entrants, long outside the economic mainstream, are the least prepared in terms of basic skills, language and literacy. As a rule, they do not have a strong educational background and have not been targeted for skills development and training. As a result, they have been represented in disproportionately high numbers at the lowest rung of the job ladder.

As job demands continue to change, minorities, women and immigrants may have difficulty competing for jobs beyond the entry level and may be in danger of becoming permanently locked into dead end positions. If they are to retain their jobs, be able to acquire new jobs (as traditional semi-skilled and skilled jobs disappear), or meet the increased demands of technology, they will need opportunities to acquire basic skills, greater language and literacy proficiency and the self confidence and motivation to take advantage of ongoing training.

The situation of women in the work force deserves special consideration. Because of lack of documentation of work status, lack of money, fear of family separation or confusion over eligibility requirements, women are underrepresented in the amnesty population. Those who did qualify are often not part of educational, vocational and employment training programs. To allow these women access to services and opportunities, we will need provide first and foremost income or stipends and access to affordable child care services and convenient transportation. In addition, we must develop innovative training programs geared towards their skill levels, language proficiency and educational backgrounds. (For innovative projects designed to meet the needs of women, see Chapter 3, Promising Practices.)

IMPLICATIONS

The above statistics underscore the fact that the non-white, the foreign born and women bear a greater share of the hardships of poverty and unemployment in the U.S. economy. Changes in demographics, the growing polarization, and the disappearance of traditional semi-skilled and skilled jobs lend a new urgency to a long standing problem. There is now serious cause for concern if we do not wish to recruit and train immigrants as new candidates for the growing number of low status, poorly compensated slots in the U.S. economy. If immigrant workers are not to be further marginalized and slip into the strata of the chronically underemployed or

unemployed, we must work together to help implement reasonable policies for economic development, education, employment training and the delivery of social services.

The changing economy is a two edged sword that cuts both ways. On the one hand, there will be severe limits for those unprepared to meet the challenges of the new technology; on the other, there will be greater access to jobs previously reserved for mainstream populations. What role can government, industry, labor, education and community agencies play to challenge the inequities in the new economy and help expand opportunities for the amnesty workers? Issues and complex and involved. There is no quick fix and there are no easy answers. At this time, published reports and discussions with representatives from various agencies point to the following strategies:

1. **The federal government** can provide a leadership role in supporting initiatives that provide employment and educational opportunities for immigrant adults striving to survive and to succeed. Federally funded programs such Job Training Partnership Programs can be encouraged to go beyond selecting those clients who are most easily placed and provide basic skills training and support services for minorities and women who have had little formal education, lack full proficiency in English and have few transferable skills.

2. **State and local educational agencies** can coordinate services so that immigrant adults in school receive the kind of education and skills training that allows for advancement and job change. Educational agencies can set up linkages with community organizations and immigrant coalitions to help students take advantage of a wider network of services including childcare, immigration counseling and advocacy, support for victims of domestic violences, AIDS information, and referrals to occupational programs.

3. **Community based organizations and community colleges** can work together to create new opportunities for economic development in immigrant communities. Following the entrepreneurship model they can provide the kind of education, training and support that allows immigrant adults to set up micro-businesses and thus gain greater independence. Through co-operation, they can move beyond the traditional model of providing training for entry level positions in blue collar occupations, and provide opportunities that call on the strengths of immigrants as survivors, risk takers and innovators. In establishing innovative programs they can broaden the array of social and economic positions open to immigrants and thus expand existing opportunity structures.

4. **Language and literacy programs** can provide the kind of education that simultaneously validates the students lives in the community and serves as a bridge to opportunities in the business community and the larger society. These programs may need to look beyond narrow assimilationist approaches to "Americanization" and develop models that acknowledge and value ethnic diversity and social and economic pluralims. They can provide models that

assist in the creation of bilingual, biliterate, bicultural adults capable of functioning competently in both the home community and the business culture, while supporting the basic American values of democracy and personal freedom.

5. Educators involved in curriculum development, materials design, and teacher education can provide the kind of curricula that acknowledge that many language minority adults are already separated by means of gender, language and race from the "opportunity structure" of the U.S. and thus do not compete freely with majority group members. At the same time, they can provide models that provide the information, skills and strategies needed to move beyond the gate keeping points and access productive well paying work. In co-operation with non-educational agencies they can look beyond strictly academic themes and textbook-based language teaching to develop a curriculum that incorporates the work related concerns adults have, the problems they face on the job, the tasks they need to accomplish, and the battles they choose to fight. Within that context they can teach the kinds of broad language and literacy strategies that employers want, namely strategies that allow workers to learn new skills on a continuing basis, be adaptive and flexible, solve problems, work co-operatively and communicate effectively on an interpersonal level.

6. Business in partnership with educational agencies can acknowledge the existence of a bilingual multi-cultural workforce whose potential needs to be recognized and developed. They can provide training for both their mainstream employees (including management) and the immigrant workers to develop the language, literacy and critical thinking skills necessary to cope with ever changing job tasks. They can support educational programs that go beyond the traditional skill and drill lessons to include problem solving activities, strategies for cross-cultural conflict resolution, and skills in social interaction along with technological training. Such collaboration can also help determine whether present educational programs do indeed facilitate advancement and mobility for workers or whether they need to be reconceptualized and restructured.

7. Teachers and counselors can become aware of their own role in either "enabling or disempowering" language minority adults. They can help empower students by validating their work experience and treating them as thinking, inquisitive adults capable of understanding the rules of the work place and their own role within the system. They can help students to both personalize and generalize work related issues and teach language skills and communication strategies needed to get a job, keep a job, move up in a job. In addition, teachers and counselor can teach amnesty students how they can use their own "language power" to challenge inequities and fight abuses.

8. Immigrant advocates, including coalitions, unions, and individual teachers can challenge the validity of educational tests, curricula, and training programs that end up limiting rather than expanding opportunities for immigrant workers. They can help us examine to what extent mastery of English and literacy are

necessary for all levels of employment and civic participation and help establish policies that minimize linguistic barriers and maximize educational opportunities.

In addition, advocates can also help us challenge arbitrarily high qualifications that workers must have to get "good jobs" and can work towards a recognition of the personal and cultural capital that immigrant workers bring to their jobs. In questioning established standards, they can bring forth some of the more fundamental issues of power and make us look at "whose voice is heard and why" in educational decisions making. These organizations can help to bring the immigrants' voice to the table and help initiate true dialogue. Finally, they can help make sure that the interests of society and the economy are not served at the expense of the language minority immigrant.

Chapter 6

Helping Workers Legalize: Meeting the Challenge

So far less than 20% of those applicants eligible to apply for permanent residence have done so. The reasons are numerous and include lack of awareness, lack of accessible information, a feeling of being overwhelmed by the educational provisions, a tendency to wait and see if regulations are going to change, and lack of opportunity to comply with the educational requirements. A large majority of these amnesty applicants are in the work force. Employers, unions, community based organizations (CBOs), coalitions, advocacy groups and educational agencies that come in contact with workers can support legalization by understanding the challenges that working applicants face and by helping to address these problems.

1. Workers Need Information

Many workers are not aware that they need to meet special requirements for PHASE II. Or if they have become aware, they do not know the details of the requirements or what they can do to meet them. Since in many areas outreach efforts have been less than successful, rumors run rampant. For example, there is a wide spread belief that every applicant needs to pass a test. This is untrue. Industry and labor can play a significant role in providing employees with information that is accurate and up-to-date.

2. Workers Are Vulnerable to Fraud

Studies have shown that the majority of amnesty applicants do not speak English well enough to understand the INS forms required for green card application. Many also have difficulty understanding INS information provided in Spanish. Confused and frustrated, many of these applicants are easy victims for unscrupulous lawyers and fly by night language schools. Industry can protect workers against fraud by telling them about legitimate agencies that provide low-cost legal advice and by referring them to approved programs that provide quality ESL and Civics courses.

3. Workers Need ESL/Civics Certificates

In California, the majority of amnesty applicants will need to attend ESL and civics courses in order to comply with the INS education requirements. The situation is similar in other states. In recognition of that fact the federal

government has appropriated funds so that schools and community-based organizations can offer ESL and Civics courses for applicants that need them. In addition, INS regulations allow bona fide private language schools to offer such courses for a fee. The schools must be approved by the INS.

Employers and unions can be instrumental in helping workers gain the required certificate. Employers can help by (a) providing background information on the educational requirements of IRCA, (b) referring workers to approved schools, (c) sponsoring or supporting a particular community-based school and (d) subcontracting with an approved program to provide services for a particular group of workers. (See industry options in Chapter 8.)

4. Workers Need to Gain Permanent Residence Status

Workers who fail to apply for permanent residence or who are unable to comply with the provisions of Phase II, will revert to undocumented status and be once more deportable. By becoming involved, industry can help ensure that their amnesty workers gain full legal status, become eligible for citizenship, and enjoy the full protection of U.S. law.

5. Undocumented Workers Need Services and Protection

Undocumented workers should be referred for counseling to see if they can get lawful status, and should understand what rights they have even without such status. They have the right to refuse to speak with the INS, even if arrested. They have the right to a deportation hearing and the opportunity to get out of immigration detention on bond within a few days of their arrest. Employers have the right to continue to employ all workers hired by them before November 7, 1986, even if the workers are undocumented and have no employment authorization. Workers can call the hotlines listed in the Appendix for referrals for counseling on how to get legal status outside of amnesty; they can also complete the English/Spanish screening questionnaire provided in Chapter 11.

For more information on rights of the undocumented, see Chapter 11.

Chapter 7

What Employers Can Do

Industry efforts can be instrumental in ensuring that every worker who qualified under Phase I will be able to meet the requirements of Phase II and gain permanent residence status. Various levels of involvement are possible. Below is a list of strategies for collaborating with coalitions and service providers.

HIGHLIGHTS: Important facts for employers about legalization. The legalization program is discussed in detail in Chapters 1 and 2. The important things to remember about legalization requirements are:

1. Temporary residents under the general legalization program must submit a phase II application by a certain deadline and fulfill an educational requirement by taking a test or going to a class.

2. They should not leave the U.S. for more than 30 days on any one trip or 90 days on all trips taken as temporary residents.

3. They need immediate legal counseling if they have been arrested or received public assistance since applying for amnesty. Even people without these problems should get their application reviewed by a community agency before submitting it.

4. Some, but not all, applicants must take an HIV (AIDS) blood test. Those who test positive need legal as well as medical counseling.

Legalization applicants and temporary residents are authorized to work. It is normal for work authorization to be extended by six or three month periods, and under IRCA anti-discrimination provisions you may not discriminate against amnesty applicants or temporary residents. They must be treated like permanent residents or citizens. See Chapter 8.

<u>Options for employers:</u>

OPTION ONE:

* Inform your workers about Phase II and the requirements that they must meet. There are now video tapes available that explain Phase II;

IRCA coalitions have brochures in English and Spanish that explain the legalization process, outreach materials are available from the INS, and the LA Times has had inserts that explain Phase II in English and Spanish. There are also various hotlines available that applicants can call to get their questions answered. (See Resources)

Option One constitutes a minimal level of involvement; keep in mind that just handing out information may not be enough to get people motivated, and it may be particularly ineffective for applicants who are not literate or not very sophisticated. Because there are several ways in which these requirements can be met, many applicants may feel overwhelmed when trying to process the information they read and hear. If you have workers whose English language proficiency or literary skills are limited, other levels of involvement may be more appropriate and hence more effective.

OPTION TWO:

* Provide work shops to which you invite representatives from IRCA coalitions and local QDEs. Many of these organizations have speakers who are able to explain the requirements to both your staff and your workers in English and in Spanish and (in some areas other languages are available as well). Speakers may also be available to discuss sanctions and the anti-discrimination provisions. Inviting a speaker gives your employees the opportunity to ask questions and discuss the concerns that they have about their own situation. At these sessions, workers may also be able to set up low-cost appointments with CBOs who can help applicants fill out the required INS forms.

OPTION THREE:

* Designate a special advisor who can act as a liaison between the workers who are amnesty applicants and the local agencies who provide information and services. This person does not need to know all the details about the law, but they should know who can provide answers about the requirements, who offers legal services, who has a school that still has openings, who provides help when applicants think they have been the victim of fraud. The liaison can also make phone calls to the INS that workers may be reluctant to make. Information packets and legalization guides are available from IRCA coalitions and the INS also provides background information.

OPTION FOUR:

* Serve as a test site for the INS proficiency test and thus help workers to meet the 40 hour "satisfactory pursuit" requirement without having to

attend a class. Keep in mind that applicants must have basic English literacy in order to cope with the test. Local INS district offices can provide information on how to serve as a test site.

However, you may want to consider the fact that in some areas access to educational classes funded under IRCA may be limited to those applicants who have not yet met the requirements. Thus applicants who pass the proficiency test may be waiving their right to attend an ESL and Civics class.

OPTION FIVE:

* Offer tutoring or review sessions for workers at the intermediate levels of English so that these workers can get some help in passing the INS 312 tests. Local schools and CBOs may be able to offer such sessions. IRCA coalitions can provide information for workers who have questions about other parts of the requirements.

POINT TO REMEMBER: Unfortunately, involvement at levels 4 and 5 will only be successful with those applicants who speak and understand some English, have basic literacy skills, possess some knowledge of civics, and can cope with a standardized test format. Workers who lack these skills will be better served if employers and unions become involved in the kinds of activities outlined under levels six through nine.

Workers with minimal English and low levels of literacy have only **one choice** in completing the educational requirements. They **must attend at least 40 hours** of an INS approved course in ESL and Civics and receive a certificate documenting that they have done so. This certificate, called "Certificate of Satisfactory Pursuit" is issued by the INS and signed by the school.

Applicants who submit this certificate will not be tested and need not provide further proof of their ability to speak English or document their knowledge of U.S. history and government.

To help workers who need a certificate gain legalization, employers and unions can get involved at the following levels:

OPTION SIX:

* Provide information on where classes are being held in your community - in most areas there are adult schools, community colleges and CBOs who are offering amnesty classes. Your local INS district office has a list of approved

programs that they will make available to you. As mentioned above, just handing out lists of classes may not be enough; personal contact may be needed.

Again, it may be helpful to work through a liaison who calls up the various schools and gets a sense of how many classes are offered and at what time, whether there is a waiting list, if they have special classes for non-literates and lower level students and whether the program is working together with other service providers in helping applicants negotiate the entire legalization maze.

Another choice is to encourage workers to call a hotline and get information directly from an agency. Many of these hotlines offer information in the first language and so are a good resource for applicants who have difficulty dealing with written information.

OPTION SEVEN

* Invite representatives from several approved programs to your work site and ask them to explain the educational options and the kind of classes they offer. Ask them to discuss when and where classes are offered, how many different levels are available, and what kind of curriculum they use. Try to get a sense of how well lower level students and non-literate students are being served. (A good indicator may be the percentage of amnesty students who stay beyond the minimum 40 hours required for legalization). Request that the representatives talk to both your staff and the workers themselves. Suggest that the program send a bilingual person or ask for translation assistance.

OPTION EIGHT

* Provide support for one particular program that seems to meet the needs of your workers. If you have a group of workers wanting to attend courses in a particular school or community-based organization, you may want to consider sponsoring such a program. (Remember the program needs to be INS approved.) This sponsorship can take the form of providing funds for teachers, materials or equipment, or it can include special support (monetary and otherwise) for the community outreach efforts of the school. Such support can be of special help to community-based programs which often have the trust and confidence of the applicants, yet may have difficulty operating under government funds.

OPTION NINE

* Contract with a particular school and ask the administrator to set up special ESL and Civics courses for which your company or your union pays. You can ask for a generic amnesty curriculum or a custom made "ESL and Civics for the

Work" course that addresses the information and communication needs of applicants who work. Again, be certain that the program the agency offers is INS approved so that your workers will be able to obtain the certificates they need for legalization. Under such an arrangement, courses can be offered either at the work site or at an agency site convenient to the workers. Under this option, the employer contracts for services with a reputable provider (see: Choosing a reputable provider below), provides space and materials and release time for workers. (In some instances employers provide a match - half the time is contributed by the employer, half by the worker)

OPTION TEN

* Invite a community agency or coalition to come to your site to help workers prepare the application. Some agencies hold amnesty "fairs" at worksites, shopping malls or schools, where applicants can drop in for help with the application and a question and answer session on phase II requirements. Or, agencies can lead groups of 10 to 50 workers in small group processing sessions. All the agencies need is a room to conduct the workshop and release time for the workers.

This is an excellent option for all parties. It allows the workers to get inexpensive and competent help with their application, and it does not leave you with the responsibility of trying to give legal advice about the program.

WORK SITE ESL AND CIVICS: SOME CONSIDERATIONS

While some employers and unions merely refer workers to existing programs, many others are actively involved in funding and sponsoring their own programs. In doing so, they gain a number of benefits:

(1) As the deadline approaches, existing programs may not be able to accommodate all the applicants that are required to take classes. Work site programs can fill a desperate need for services, and thus can help to ensure a legal workforce.

(2) Many workers have child care or transportation problems. Taking a class at the worksite before or after their shift alleviates the need to go to another site for an education program. Workers will be less tired and more appreciative.

(3) Many women workers find it difficult to leave the house in the evening to go to classes. Taking classes at the work site or close to the work site provides an acceptable alternative.

(4) Traditional education programs are often not aware of the special needs of amnesty applicants who work. Work place programs can take scheduling problems and job changes into consideration.

(5) General amnesty courses may not teach the type of English or civics that workers need most. Work place programs can teach employment related communication and civic skills.

(6) There are reports that some workers, unaware that free programs exist or unable to find space in publicly funded programs have become victims of store front schools that defraud applicants by charging money and promising certificates without being approved. By providing legitimate ESL/Civics courses, employers and unions can protect applicants against "certificate" fraud" and help save the money, time and effort required to obtain redress in such cases.

CHOOSING A REPUTABLE SERVICE PROVIDER

Employers or unions who are planning to fund and sponsor programs or are wiling to offer classes at the work site need to be careful in choosing a reliable, responsible service provider who can provide quality ESL and Civics classes.

Before you sign up with a particular teacher, language school or educational program, ask to discuss the following issues:

CHECKLIST:

A. Program Characteristics:

1. Are the program and its curriculum approved by the INS? Demand to see documentation.

2. Is the program administrator able to present you with reasonable options regarding program design, funding and class schedules?

3. Is the program flexible enough to accomodate changes in work schedules?

4. Does the program provide support services such as counseling and referrals, child care and transportation assistance?

B. Teachers:

5. Do the teachers have strong qualifications in the following areas?

- experience in teaching language minority adults
- experience in teaching English as A Second Language
- experience in teaching basic language and literacy skills
- knowledge of the legalization process and knowledge of support services in the community
- experience in teaching work related literacy and language
- sound ideas about teaching civics to students who have little experience with schooling in their home country and limited proficiency in English.

C. Curriculum

6. Does the curriculum include the following components?

- an assessment of the applicants' language proficiency.
- a definition and an explanation of the type of ESL/civics to be taught (e.g. civics for the work place, "practical civics", traditional U.S. history and government).
- a list of the topics or themes to be taught, the instructional approach used, and the evaluation measures employed; as well as an explanation of support provided for students who need additional help or special challenges
- a counseling component and referral service able to assist students who are at risk of dropping out or may have legalization problems
- materials appropriate to the language and literacy levels of the students; these should be supplemented with materials that (a) teach language and skills necessary for legalization, and (b) emphasize work place communication

D. Lessons and Activities:

Ask to see a sample lesson that illustrates the activities that your workers will be engaged in. The lessons should:

(1) focus on oral communication skills and demand active participation rather than passive listening; (be suspicious when instructors who teach lower level classes talk about lecturing). Look for pictures, photographs, and large print posters as part of the lessons for lower level students.

(2) emphasize meaning over form even when teaching initial literacy - (be careful if the program defines literacy solely in terms of being able to copy letters and read "rhyming words" such as cat, rat, sat). Look for examples of "real life print" as it appears in pictures and signs taken from the applicant's home and work environment.

(3) include functional reading and writing activities that reflect real world tasks (e.g. reading signs, labels and lists; short news items or interesting stories; writing notes and messages, filling out simple forms. Reject work books that largely consist of fill-in-the-blanks exercises or occupy the student with busy work.

(4) define civics in a way that is appropriate for the language level and educational background of the workers. Applicants who have trouble reading a pay check stub probably are not ready for discussions on the three branches of government.

(5) involve some problem solving so that your workers don't become too tired, overwhelmed or frustrated. Look for materials that you might want to work with if you had to learn a new language after working for eight hours or more. Ask the teacher what students do for fun in that class.

(For a sample curriculum, see Chapter 10)

Chapter 8

What the Law Says: the Employer Sanctions and Anti-Discrimination Provisions

The Immigration Reform and Control Act of 1986 created two new programs relating to employment:

(1) The **employer sanctions** program allows the Immigration and Naturalization Service (INS) to impose penalties on employers who hire undocumented persons or fail to complete paperwork on the immigration status of all employees (except for those hired before November 7, 1986). The goal of the program is to slow illegal immigration at the border by making it harder for undocumented workers to obtain jobs.

(2) The **anti-discrimination** provisions of IRCA were meant to counterbalance the employer sanctions program. Many groups are concerned that employers will "play it safe" by refusing to employ any people who are foreign-looking or are not U.S. citizens, even if they have lawful immigration status. In fact, a recent unanimous report by the U.S. Commission on Civil Rights found that evidence is "more than sufficient to establish a pattern of discrimination" caused by employer sanctions. A report by the New York City Commission on Human Rights documented "widespread discrimination" against immigrants and people perceived as immigrants. (Interpreter Releases, August 28, 1989.) Employers who discriminate against protected aliens can be made to rehire employees and pay fines, back-pay and attorneys' fees.

Thus, under the employer sanctions provisions, IRCA imposes two new responsibilities on employers. Only for employees hired after November 6, 1986, employers:

(1) must not knowingly hire, recruit, or refer for a fee for employment aliens who are not authorized to work, and

(2) must fill out an I-9 form for every employee, whether citizen or alien, stating that the employer has examined documents showing the employee's identity and work authorization.

The INS can impose fines and, in extreme cases, bring criminal charges against employers who do not comply with employer sanctions. The employer sanctions law is found at INA section 274A, 8 CFR section 274.a.

While employers need to understand employer sanctions, it is just as important that they understand the IRCA anti-discrimination provisions, discussed in the Section III. Employers may not impose a "citizens only" rule or treat persons differently based on race or national origin as a means of avoiding employer sanctions. Employers must thoroughly understand both the employer sanctions and the anti-discrimination provisions in order to maintain lawful employment practices. For materials on employer sanctions and anti-discrimination see Appendix C, Resources.

I. THE EMPLOYER SANCTIONS PROVISIONS

THE MOST IMPORTANT THING TO REMEMBER ABOUT EMPLOYER SANCTIONS IS: You must examine identity and work authorization papers for anyone you hired since November 6, 1986. A list of what documents are legal proof is provided below. If the person shows you any of those documents and they appear to be valid, you should accept them: don't "play detective" or require other documents. Use the documents to fill out an I-9 form for the employee and keep I-9's in a separate file.

A. WHAT EMPLOYERS ARE COVERED BY EMPLOYER SANCTIONS? ARE THERE ANY WORKERS WHO ARE NOT COVERED?

The law applies to all employers, no matter how few regular employees they have. But some relationships are not considered to be "employment" and so are not covered:

* **casual hires at the home:** the definition of employment in the regulations excludes "casual employment by individuals who provide domestic service in a private home that is sporadic, irregular or intermittent."

While persons who regularly employ domestic workers in the home are technically subject to sanctions, the INS has stated that enforcement against private homes is its lowest priority.

* **generally, independent contractors are not considered employees**, and persons brought in by a labor contractor are not the employees of the employer using the contractor. The INS follows IRS guidelines in determining who is an independent contractor.

However, if the employer knows that the contracted workers are not authorized, the employer shall be considered to have employed them and will be subject to sanctions.

B. WHO CAN BE HIRED: WHAT ALIENS ARE AUTHORIZED TO WORK?

1. Persons with any type of INS work authorization

Lawful permanent and temporary residents are not the only aliens authorized to work in the United States. There are over 30 types of immigration status which may permit an alien to work lawfully. The INS employment authorization may appear on many kinds of documents. Employers must treat aliens granted work authorization equally, or they may run afoul of IRCA or other anti-discrimination laws.

EXAMPLE: Maria was just granted asylum and has documents showing authorization to work. If Employer refuses to hire her because she does not have a green card, he can be charged under IRCA anti-discrimination provisions.

The kind of documents which show INS work authorization are described in section E, below.

2. Persons employed on or before November 6, 1986.

A second class of employees is exempted from employer sanctions by an IRCA grandfather clause. Employer sanctions do not apply to persons who have been continuously employed by the employer since November 6, 1986, whether or not they have legal immigration status or work authorization. Employers may lawfully continue to employ the workers without fear of sanctions, and do not need to complete I-9 forms for them.

EXAMPLE: Rafael has worked for Local Company steadily since the summer of 1986. Local Company knows that Rafael is undocumented and has no INS work authorization. However, under the IRCA grandfather clause, Rafael is legally employed and the company is not subject to sanctions. The company does not need to complete an I-9 form for Rafael, but it does need to show that Rafael was hired on or before November 6, 1986.

To maintain status under the grandfather clause, the person must have been "in continuing employment" with the same employer since November 6, 1986. A person maintains continuing employment and grandfather status if he or she:

* works steadily at the same job.

* is absent and returns to work after leave for study, illness, pregnancy, maternity or paternity leave, illness of family, vacation, union business, or other temporary leave approved by the employer.

* is terminated but reinstated due to wrongful termination.

* is promoted, demoted, or gets a pay raise.

* is laid off for lack of work.

* is on strike or in a labor dispute.

* continues employment with related, successor, or reorganized employer. This includes:

-- the same employer at another location
-- an employer who continues to employ some or all of a previous employer's workforce in cases involving a corporate reorganization, merger, or sale of stock or assets; or
-- an employer who continues to employ some or all of another employer's workforce where both employers belong to the same multi-employer association and employees continue to work in the same bargaining unit under the collective bargaining agreement.

It appears that seasonal workers who are annually laid off for lack of work would have continuing employment, if they work regularly each year for the same employer.

An alien will lose grandfather clause status if he or she quits, is terminated other than in a wrongful termination, or is excluded, deported, or takes voluntary departure. See 8 C.F.R. section 274a.2(b).

C. WHAT ARE EMPLOYER DEFENSES TO CHARGES OF ILLEGAL HIRING?

It is illegal to knowingly hire an alien, or recruit or refer an alien for a fee, knowing that the alien is not authorized to work in the United States.

The sanctions apply only to "knowing" violations. Employers should not be subject to sanctions if they do not actually know that the alien is not authorized to work. If the employer examines the documents necessary to complete the I-9 form, and the documents reasonably appear to be valid, the employer has created a good faith defense to sanctions. The government would have to produce evidence showing that the employer know the documents were false.

The law specifically states that employers are not required to ask for documentation beyond that needed to complete the I-9 form. In other words, if the employee presents apparently valid I-9 documents the employer does not have a duty to further investigate the person's status.

EXAMPLE: Kwan gives his employer a driver's license and a social security card to provide identity and work authorization. The employer has heard that some people in the area have used false cards, but this card appears to be normal. Under employer sanctions, the employer does not have a duty to investigate the social security number. Under anti-discrimination provisions, if the documents are valid, the employer may not demand to see other types of documents just because he or she thinks they are better.

Employers are permitted to photocopy immigration documents only for purposes of the I-9. Employers do not have to make copies, but they may want to in order to preserve evidence to show their own good faith in conducting verification. The photocopies must be kept with the I-9, and may not be used for any purpose other than to respond to INS requests for information.

The House Judiciary Committee report on IRCA states that sanctions should not be imposed for "technical violations caused by exigent circumstances or processing delays." This might protect an employer where the INS has delayed adjudicating an application for status which would include work authorization.

D. HOW TO COMPLY WITH VERIFICATION: THE I-9 FORM

Recall that there are two parts to the employer sanctions provisions. One requires employers not to knowingly employ aliens who do not have work authorization. The other requires employers to document that all employees hired after November 6, 1986 have provided their true identity and are authorized to work in the United States. The verification requirement applies to U.S. citizens as well as alien employees.

To do this the employer must complete an I-9 Form, entitled Employment Eligibility Verification Form, for each employee. The employer must sign the form stating that he or she has physically examined documents showing the employee's identity and work authorization. The employee also must attest that he or she is authorized to work.

The I-9 form:

1. must be filled out for every employee, whether citizen or alien, who was hired since November 6, 1986.

2. should not be filled out for employees hired before November 6, 1986.

3. must be filled out within three days of the time the person is hired. If it is a one-day hire, it must be filled out immediately.

4. must be kept on file for three years, or one year after the employee leaves, whichever is later.

Note that some employees do not need to fill out I-9 forms. The I-9 form must be completed for all persons who are actually hired and for whom work authorization is required. Thus, a person who does not need authorization because he or she has been employed since November 6, 1986 does not need to complete a card. Neither do casual domestic hires or independent contractors, discussed at section B, above.

The employer need not complete an I-9 for persons who apply for the job but are not hired. Also, if a state employment agency provides an employer with a completed I-9 for a new employee, the employer does not have to repeat the verification. State agencies may choose whether or not to institute verification procedures.

E. WHAT DOCUMENTS ARE ACCEPTABLE PROOF OF IDENTITY AND WORK AUTHORIZATION FOR THE I-9 FORM?

The employer must inspect documents showing identity and work authorization as part of the verification process. For purposes of verification only, employers are allowed to photocopy government documents such as naturalization certificates, social security cards, etc. Employers who do so must keep the copies with the I-9.

The following documents fulfill the verification requirement, according to federal regulation. Note that all listed documents work equally well to complete verification. If an employee presents valid documents which are on the list, do not require him or her to bring in additional documents. This

could be the basis for employment discrimination charge.

a. Documents which establish both identity and work authorization:

- U.S. passport (expired OK)
- certificate of U.S. citizenship or certificate of naturalization
- an unexpired foreign passport which
  contains a stamp that reads "processed for I-551," or
  has attached a Form I-94 with unexpired work authorization
- a permanent resident card, I-551, or Alien Registration Receipt card, I-151
- a temporary resident card, I-688, or work authorization card with photograph of the bearer, I-688A
- Native American Tribal document
- U.S. citizen identification card, I-197
- resident alien identification card, I-179

b. Documents which establish employment authorization only:

- social security card (unless it states on its face that it does not authorize employment)
- an employment authorization document issued by the INS
- original or certified birth certificate from any state
- certificate of birth issued by State Department, FS-545
- Report of U.S. Citizen Birth Abroad, State Department, DS-1350
- an unexpired re-entry permit, I-327
- an unexpired refugee travel document, I-571

c. Documents which establish personal identity only:

- state-issued driver's license or identification card containing a photo (if no photo, identifying information must be included)
- school identification card with photo
- voter registration card
- U.S. military or draft card
- identification card issued by federal, state or local government agency
- military dependent's identification card
- Native American tribal documents
- U.S. Coast Guard Merchant Marine card
- Canadian driver's license

Persons who are 16 years or younger and who cannot produce any of the above documents can prove identity by producing a school record or report card; a clinic, doctor or hospital record; or a daycare or nursery school record.

F. WHAT PENALTIES DO EMPLOYERS FACE?

For knowingly hiring undocumented workers. The civil penalties for unlawful hiring, recruiting and referring for a fee are as follows:

- first violation, $250-$2,000 per unauthorized alien;
- second violation, $2,000-$5,000 per unauthorized alien;
- more than two violations, $3,000-$10,000 per unauthorized alien.

A "violation" refers to the acts covered in a single proceeding against the employer. In other words, all violations charged in the first case against employer would count as first violations.

Criminal penalties may be imposed against an employer who engages in a pattern or practice of employment violations, meaning regular, repeated and intentional activities. The employer can be fined up to $3,000 for each unauthorized alien and sentenced up to six months in prison. A court may issue an injuction forcing the employer to stop unlawful activities.

For failure to comply with verification (I-9 form). Civil penalties for failing to complete verification are $100 - $1,000 for each employee. The penalties apply even if the employees are U.S. citizens.

The INS will consider five factors in deciding how much of a penalty to apply. They are: the employer's size; whether the employer acted in good faith; the seriousness of the violation; whether the applicant was unauthorized; and history of previous violations.

G. WHAT TO DO IF THE INS OR DOL ASKS TO INSPECT YOUR RECORDS

THE MOST IMPORTANT THINGS TO REMEMBER ABOUT AN I-9 COMPLIANCE VISIT ARE: you should not show the INS anything except your I-9 forms, or allow them into work areas. You are entitled to three days to get the forms together, and you can ask to bring the forms to a government office rather than have the forms checked at your site.

The Department of Labor (DOL) or the Immigration and Naturalization Service (INS) could visit your office and ask to check your I-9 forms. If DOL writes or visits and you believe your I-9 forms are in order, you may choose to show the forms to DOL immediately or ask for three days to gather the forms together. If you ask the DOL for the three days, they will not return but will instead send the INS to check the forms at that time. Thus, if you are sure that your forms are in order, you might choose to show them immediately to DOL in order to avoid a visit by the INS.

If the INS contacts you about the forms, there is no disadvantage to claiming the three days. If you have any questions you should contact an attorney at that point. You should also ask the INS if you can bring the I-9 forms to their office rather than having them come back to your workplace, to avoid frightening your workers.

If the INS does come to your workplace, do not allow them in non-public access work areas where they might be able to question workers. Keep them in a front office or other area where they can review the I-9's. You must protect your "grandfathered" employees (who do not have authorization but have worked there since November 6, 1986). **These employees could be deported by the INS if discosvered, even though you could not be penalized for hiring them.** The INS does not have the right to review any documents pertaining to grandfathered employees, or to see any other documents such as payroll, applications, etc. You do not have to discuss grandfathered employees. The INS should not remove your I-9's and supporting documentation from your office.

H. WHAT TO DO IN CASE OF A RAID BY THE INS.

An INS raid on a workplace or public business can be a very intimidating and disruptive event. It may result in the deportation of unprotected workers, and employer sanctions or other charges against the employer. There is every advantage in legally resisting such a raid, and generally no advantage in permitting it to go on illegally.

Generally the INS will arrive at your business without a warrant and will attempt to convince someone to let them conduct an investigation of the worksite. The INS has no right to enter your worksite without a proper warrant. Ask to see a warrant. If there is no warrant, tell them clearly that you do not give them your consent to enter. When they leave, contact a lawyer, as they may return later with a warrant.

If the INS does have a warrant, read it carefully before allowing them to enter. All warrants must be signed by a magistrate and not be over 10 days old. A warrant which permits INS to enter and question workers does not grant them the right to inspect books and records. **If the warrant permits the INS to seize or arrest workers, it must specify them by name.** Ask them to let you call the named workers to the front office, so that the INS does not enter areas where they may find other workers.

Contact a lawyer as soon as you know the INS is attempting to raid your establishment, or immediately after a raid. If a raid was illegal, you may be able to suppress the evidence gathered there.

II. ANTI-DISCRIMINATION PROVISIONS

Some employers find the employer sanctions provisions confusing and threatening. In response, they may try to make a clear anti-alien rule at the workplace, for example that only U.S. citizens may be employed, or try to avoid employment of foreign-looking persons.

This constitutes unlawful discrimination on the basis of citizenship and national origin. Under the IRCA anti-discrimination provisions, employers found to have discriminated may be ordered to hire or reinstate with back pay, and pay civil penalities and attorney's fees. Other labor or anti-discrimination laws may also apply and involve compensatory and punitive damages.

HOW TO AVOID SANCTIONS: The easiest way to stay within the anti-discrimination provisions **is to treat all aliens with valid work authorization as if they were U.S. citizens, unless you have a government contract which does not allow you to do so. Do not impose a "citizen and permanent residents only" rule. Moreover, do not treat any employee or job applicant -- whether citizen or alien -- differently in any way because of race, national origin, or ethnic background.**

In reality, it is not difficult to walk the line between employer sanctions and the IRCA anti-discrimination law. Lawrence J. Siskind, the first head of the Justice Department's Office of Special Counsel for Immigration-Related Unfair Employment Practices, recently spoke to employers at a conference at Stanford University. Now in private practice advising employers how to comply with the anti-discrimination provisions, he described six helpful rules for employers. These serve as a good introduction to the IRCA anti-discrimination law:

1. If you have a U.S. citizen-only policy, get rid of it. If you have defense contracts which require certain staff to be citizens, narrow your policy to the covered jobs only and check with the Department of Defense to see if they will back you in a discrimination suit.

2. Likewise, get rid of a U.S. citizen/lawful permanent resident-only policy.

3. Don't accept I-9 supporting documents selectively. All documents listed in the statute meet the legal requirement; if you limit what you are willing

to accept you may be discriminating.

4. Treat all intending citizens (aliens covered by anti-discrimination provisions) alike.

5. Better yet, treat all aliens with work authorization alike. Even if they are not covered by the IRCA anti-discrimination provisions, why run the risk of violating other laws?

6. If a discrimination charge is filed against you and there is no private action yet, if at all possible settle with the Office of Special Counsel. The OSC looks at cases with a different perspective than private parties. Most importantly, the OSC cannot apply for attorney's fees; the most that it will require is re-hiring, back pay, and a civil penalty.

Note on other anti-discrimination law. This section will discuss the IRCA anti-discrimination provisions. Employers should note that other important anti-discrimination and labor laws also apply to aliens, including Title VII of the 1964 Civil Rights Act, 24 U.S.C. section 1981, the National Labor Relations Act, and others.

The IRCA program is the only law which prohibits discrimination based on immigration or citizenship status. However, employers who discriminate based on citizenship and are not liable under IRCA provisions may still be liable under other laws, if their action is found to be a subterfuge for discrimination based on national origin.

The IRCA anti-discrimination provisions are found at INA section 274B, and 8 CFR part 44. The provisions are most commonly referred to as Section 274B.

A. WHAT EMPLOYERS ARE SUBJECT TO THE ANTI-DISCRIMINATION LAW?

Section 274B offers protection against discrimination based on citizenship and national origin. The citizenship provisions apply to all employers with 4 or more employees. The national origin provisions apply to employers with from 4 to 14 employees, or who otherwise do not fit within Title VII guidelines. The law applies during any period of time in which the employer had the minimum number of employees.

There is no government exemption: the law applies to federal, state and local governmental departments and agencies with 4 or more employees.

It is useful to think of the IRCA provisions against national origin discrimination as a kind of extension of Title VII of the 1964 Civil Rights

Act. Both Title VII and the IRCA provisions protect against discrimination based on national origin. Title VII applies only to employers who employ 15 or more employees for at least 20 weeks in the current or previous calendar year. The IRCA national origin protections apply to employers not covered by Title VII, who for example (1) have from 4 to 14 employees, or (2) have 15 employees but do not satisfy the 20 week rule. Employers who meet the requirements for Title VII will be charged under it rather than under IRCA, where the charge is based on national origin discrimination.

B. WHAT KIND OF EMPLOYER CONDUCT IS COVERED?

Four kinds of conduct are covered: hiring, discharge, and recruitment or referral for a fee.

C. WHAT ALIENS CAN FILE A CLAIM UNDER SECTION 274B?

All aliens authorized to work are protected from national origin discrimination under the IRCA provisions. Title VII may extend the same protection to aliens who do not have work authorization.

To be protected from citizenship discrimination under IRCA, the employee must be a U.S. citizen, national or "intending citizen."

An alien must satisfy three requirements to qualify as an intending citizen. First, at the time of the act of discrimination the person must be either a lawful permanent resident, an asylee or refugee (person granted asylum or refugee status), or a temporary resident under the general legalization program. A person who has been granted temporary residence is considered to have that status retroactive to the date the application was first submitted.

Note that the definition excludes other aliens such as SAW temporary residents, persons who have applied for asylum or permanent residence but not yet obtained it, and non-immigrants.

Second, the person must have filed Form I-772, "Declaration of Intending Citizen," with the INS. This form must be filed before filing a charge of discrimination, but it does <u>not</u> have to be on file at the time the discriminatory act occurred.

Third, the person must have filed for naturalization within six months after first becoming eligible or as of November 6, 1986, whichever is later, and must have completed naturalization processing within two years of filing. There is an exception to the two year requirement for persons who have shown that they are diligently pursuing their application. Temporary residents become eligible to apply for citizenship five years after filing their phase II

application.

D. WHAT IS NATIONAL ORIGIN DISCRIMINATION?

For purposes of Title VII and section 274B, "national origin" refers to the country where a person was born or from which his or her ancestors came. This is the traditional discrimination against a person who appears foreign. The EEOC, which handles Title VII claims, defines national origin discrimination as unequal treatment of an individual because he or she "has the physical, cultural or linguistic characteristics of a national group, or is associated by marriage or otherwise with a national origin group ..."

Examples of discriminatory conduct might include: seeking employment verification only from foreign-looking applicants or person with foreign surnames; refusing to hire someone because of his or her ancestry, place of origin, or physical, cultural, racial or linguistic characteristics; discrmination based on accent; requiring employees to speak English at all times; and aptitude tests or height and weight requirements that disproportionately affect protected groups and are not justified by business necessity.

Employer Defenses. There is one exception to the prohibition against national origin discrimination, which is if the employer can show that the discriminatory requirement is a "bona fide occupational qualification reasonably necessary to the normal operation" of the business.

E. WHAT IS CITIZENSHIP STATUS DISCRIMINATION?

Citizenship status discrimination refers to discrimination against an individual because he or she is not a U.S. citizen. A clear example is a "citizens only" rule. Discrimination might also be found where a lawful temporary resident is fired after it is discovered that she used a false social security number, and the employer has not fired U.S. citizens who have used false numbers.

Even inquiries about citizenship may cause problems. If, for example, an employer includes a question regarding citizenship status on an employment application form and does not hire the non-citizen applicant, the applicant has prima facie evidence of unlawful intent to discriminate. The employer would have to show that he or she did not rely on the lack of citizenship in making the hiring decision.

Employer Defenses. There are some two exceptions to the prohibition against citizenship status discrimination. First, an employer may discriminate against non-citizens if this is required to comply with federal, state or local laws, regulations or contracts, or if the Attorney General requires this for the employer to do business with a government department or agency. However,

employers should beware not to extend this "citizens only" rule to an entire project if only certain positions are covered. In case of any doubt, the employer should obtain assurances from the government that it will support the employer in case of a suit.

Second, an employer may choose to hire, recruit or refer a U.S. citizen or national over an alien if the two are "equally qualified."

F. HOW TO FILE A DISCRIMINATION CHARGE; PENALTIES AND AWARDS.

A person who has suffered discrimination must file a charge with the Office of the Special Counsel (OSC) within 180 days of the last day of the discriminatory act. However, in some cases the OSC may consider a late-filed case. After the complaint is filed the OSC has 120 days in which it may either bring a complaint, state that it will not bring a complaint, or take no action. If the OSC decides to bring a complaint it will move against the employer without charge to the employee. If the OSC issues a letter stating that it will not bring a complaint, the employee has 90 days after receipt of the letter to bring a private action. If the 120 days pass without the OSC taking any action, the employee has 90 days from that date to bring a private action.

Because of possible confusion as to whether a charge should be brought with the EEOC (the agency which handles claims under Title VII) or the OSC, a complaint filed at either office will toll the initial filing deadline for the other.

If charges are brought and the case is not settled, a hearing will be held before an administrative law judge. If the judge finds that illegal discrimination has occurred, he or she must order a civil penalty of up to $1,000 for each individual discriminated against in a first case and up to $2,000 per individual in additional cases. The judge must order the person to be hired, with or without back pay, and for the employer to stop illegal practices. The judge may also order the employer to retain the name and address of all job applicants for up to five years. The employee may also apply for attorney's fees.

Charges of employment discrimination should be mailed to:

Office of Special Counsel for
Immigration Related Unfair Employment Practices
PO Box 65490
Washington, D.C. 20035-5490

Telephone: (800) 255-7688
within Washington D.C. call: (202) 653-8121
TDD for hearing impaired: (202) 653-5710

Chapter 9

ESL/Civics: Responding to the Needs of Immigrant Workers

EMPOWERMENT ISSUES

Most amnesty programs do not reflect the fact that the majority of the applicants are in the work force. As a rule, ESL/civics courses offer traditional civics (e.g. the three branches of government, the major presidents, symbols such as the flag and the Statue of Liberty and brief discussion of historic events such as the Revolutionary War). Very few programs offer a non-traditional civics curriculum designed to promote civic participation and community awareness and even fewer take on work place issues such as workers' rights, the history of immigration as the history of immigrant labor, or the various labor laws designed to protect workers. Even fewer give consideration to the issues that affect immigrant women in the work force, e.g. worrying about affordable child care, adequate transportation and having to deal with the stress of combining family life, work and schooling.

Just as the civics curricula tend to be informed by traditional ideas of "civics" and are apt to present the "cleansed version" of U.S. history, English as a Second Language teaching tends to be dominated by approaches that support acceptance of the status quo and one way assimilation into the mainstream. Very few programs teach amnesty students the "language of power" that is the knowledge, skills and strategies needed to understand the economic and social reality of the work place, discuss work related issues and concerns, explore options or evaluate consequences.

A notable exception to traditional civics and ESL curriculum are programs that offer an "empowerment" approach to the education of immigrants. Many of these programs question the myth of the American work place as a place where work is rationally organized and where people just happen to have different jobs with different responsibilities. Instead, they openly acknowledge the fact that the relationship between language and work is political and try to build a forum in which students can discuss work place issues such as sexual harassment, concerns about health and safety issues, differing concepts about the value of time (is time really money?) and explore sensitive issues such as stereotyping, discrimination and prejudice (in themselves as well as in others).

In many empowerment programs, learning is participatory rather than teacher controlled, and the curriculum revolves around the concerns, questions and "stories" that immigrant workers bring to class. Methods often include role playing, problem analysis through case studies, problems posing (along the lines of Freirean pedagogy), and even some problem solving where appropriate. Language strategies focus on ways of getting information (about labor law in a particular state) expressing concerns (about fumes, chemicals, etc), asking questions (about pay raises,

schedule changes, changes in work routines), and voicing complaints (about unfair practices, unsafe conditions, etc.)

One such empowerment program is the SLIAG funded Labor Immigrant Assistance Project run by the Los Angeles County Federation of Labor, AFL-CIO. (see Chapter 3; Promising Practices.) According to Candice Brown, the national training co-ordinator, AFL-CIO sponsored ESL and civics classes try to link applicants' experience as workers and immigrants to the past (the history of the labor movement and the history of immigration) as well as to issues of the day ("Should Oliver North go to prison?"). Other topics include amnesty rules and regulations, employer sanctions and anti-discrimination provisions as well as issues related to collective bargaining.

COMPETENCY BASED EDUCATION

A Freirean based empowerment model or a trade unionist approach are not the only ways to teach work place language and literacy. Many competency based education curricula include employment related language functions. The CASAS Curriculum Guide for IRCA ESL Programs, for example, lists an "Occupational Knowledge" category that includes topics such as "Getting a Job" and "On the Job". In many of these programs, students learn how to fill out application forms, answer interview questions, follow instructions, ask for permission and request raises.

In many cases, teachers have broadened the context of CBE to include both "employer focused" and "worker focused" competencies. They encourage students to develop a sense of pride in their work and in their skill. Many teachers introduce both survival and "fight back" strategies and include empowerment competencies that allow them to teach the language skills needed to understand, read and interpret job rules and regulations along with strategies for question their validity, fairness or absoluteness. In some programs, as part of learning to communicate with supervisors and co-workers, working students also learn to express solidarity and voice support for each other. In addition they develop the self-confidence they need to assert themselves at the work place and within their unions.

Most amnesty teachers realize that many immigrant workers face a difficult conflict: wanting both to participate in the "opportunity structure" so that they can provide a decent living for themselves and their families and wanting to be able to create a community and family life that supports their traditions, values and language. These goals are not contradictory, ESL and civics programs can help workers to understand the culture of the work place and negotiate its terrain, while at the same time acknowledging and validating the immigrant workers' thoughts, experiences and goals. Total assimilation and acculturation are only one choice; support for pluralism, cultural flexibility and gradual cultural transition are others.

Chapter 10

"Teach the Students, Not the Book"

A Curriculum Guide

This guide contains guidelines for setting up a general amnesty preparation program and includes curriculum recommendations for two types of courses:

1. Courses that teach history and government so that applicants will be prepared to take the INS 312 Exams and

2. Courses that teach practical civics to those students who will not take any test but will need a certificate documenting that they have attended an ESL/Civics Course.

OVERVIEW

In preparing responsible educational programs for amnesty applicants, service providers face major challenges. Foremost among these are the need to

* understand IRCA legislation and be able to explain requirements, rights and obligations to applicants (or else refer them to the appropriate community sources).

* understand applicants' overall needs, including short term (legalization) and long term goals.

* provide a curriculum that is approved by the INS, and is educationally sound and socially responsible.

* establish standards and policies that serve the applicants' best interests and protect the undocumented.

DEVELOPING AN AMNESTY PREPARATION PROGRAM

Minimally, an amnesty preparation program should contain the following components:

Needs Assessment

including an evaluation of the applicants' understanding of the legalization process; knowledge of history and government; English language proficiency and literacy levels in the first language; educational background; and socio-economic circumstances that might present an obstacle to completion of the program.

Counseling

including information on the legalization process, information on options available to meet requirements, explanation of instructional program, placement into courses, discussion of present circumstances and long term goals and referrals to support services and suitable educational or job training programs.

Instructional Program

several levels of courses specifically geared towards the educational and linguistic levels of the students, ranging from courses for pre-literate to special work shops on citizenship exam preparation; should include a description on program standards and procedures for evaluating student progress.

Policy to Protect Students and Safeguard Confidentiality
including a protocol for handling "monitoring" visits by the Immigration and Naturalization Service, setting up separate files for documented and undocumented clients, and safeguarding records for students who may be at risk of not being able to obtain legalization; procedures for identifying students at risk of dropping out before the requisite 40 hours have been completed.

DESIGNING THE INSTRUCTIONAL COMPONENT

A responsible Amnesty Preparation Program needs to meet two requirements:

1. It must be within the guideline established by IRCA and as such contain

a. procedures for placing students into appropriate class levels

b. a curriculum of at least sixty hours per class level, with a description of what is to be taught in each course; it must integrate ESL and citizenship and provide instruction that is "relevant and educationally appropriate for the program focus and the intended audience".

c. a description of program standards and procedures for evaluating "satisfactory progress" towards meeting standards.

d. copies of the federal text to be used in classes where appropriate; otherwise, at least one copy must be available as a resource.

2. It must meet the special needs of the amnesty applicants to be served:

a. Primary among those needs is the need to achieve legalization. Helping students gain permanent residency should thus be the essential focus of an amnesty preparation program.

b. Many amnesty students will have had negative experiences with schooling and may need a supportive, positive environment in which they can learn and build confidence in their own ability to cope.

DEVELOPING COURSES THAT MEET STUDENT NEEDS:

Whatever curriculum is selected, it must be capable of responding to three major groups of students:

1. Applicants who have chosen to take the INS administered exam in English and citizenship and do NOT wish to take classes.

These applicants may need workshops or counseling sessions that explain the legalization process, discuss options available to them and provide practice in dealing with an INS examiner. Referral services may be helpful.

2. Applicants who want to take classes that will prepare them for the INS exam.

These applicants need a course that prepares them for the INS exam. The course should include information on legalization, content based on the federal text, and the questions that examiners may ask. For details, see **"Green Card English and More,"** below.

3. Applicants who need a certificate of satisfactory pursuit and are not ready to submit to an INS examination.

These students may benefit most from a "practical civics" course that helps them to understand their community and provides them with the skills needed to effectively access services and participate fully in the larger society. In addition they need information and strategies on how to complete the legalization process.

POINTS TO REMEMBER:

1. Students who lack basic literacy skills should not be taught in the same class (at least not in the same way) than student who speak little English but have learned to read and write.

2. INS does allow for bilingual support in the content courses, so the first language may be used to help students understand concepts that are too difficult to understand in English.

CURRICULUM RECOMMENDATIONS

PART ONE: ESL AND CIVICS FOR CERTIFICATE STUDENTS

Many (if not most) of the applicants seeking educational services will not have the English language and literacy skills to pass the INS exam or to benefit from a traditional citizenship curriculum.

These students will need to be enrolled in a class that meets the legal requirements set up by INS. These include a curriculum for a 60 hour course that integrates ESL and citizenship in a way that leads to greater knowledge and understanding of U.S. history and government. The course must also be suitable for the English proficiency level of the students and appropriate for the program focus. After having attended such a course for 40 hours and after having made progress (as defined by the educational agency, see Program Standards below), students are eligible to receive the "Certificate of Satisfactory Pursuit" issued by the INS.

LANGUAGE SKILLS FOR LEGALIZATION AND COMMUNITY PARTICIPATION

Courses designed for students who need a certificate should try to work towards these goals:

1. to help students meet the legalization requirements (i.e. attending a course for a minimum of 40 hours; obtaining a "certificate of satisfactory pursuit", submitting all necessary documents to the INS; completing an "interview" with the INS examiner.)

2. to offer the kind of content and teaching that is appropriate for the skills level of the students and relevant to their lives

3. develop the language skills necessary to complete legalization and interact with members of the larger (English speaking) community.

The "Certificate Only" group most likely shares the following characteristics:

Applicants

* are not expected to take the INS administered exam, but will need a "Certificate of Satisfactory Pursuit"

* will have limited English proficiency and most likely will have difficulty understanding "academic" information.

* may have fairly good "survival English", but may lack the literacy skills necessary to deal with successfully textbook materials

* may have only a few years of schooling in their home country and thus may not be used to classroom instruction

* may have had negative educational experiences and lack confidence in their own ability to learn

* may have little or no background in literacy in their first language and thus may not be able to fully understand materials written in the first language

* may not be able to relate to history presented in terms of facts and figures.

* may face problems in their daily lives (child care, family illness, work stress) that inhibit them from coming to classes and benefiting from classroom instruction.

Based on these characteristics, a course offering certificates only, should try to focus on content of immediate importance to students' lives and provide an environment in which students can feel comfortable, confident and supported while they acquire content information and learn English.

POINT TO REMEMBER: The INS does not require that the civics component consist of the facts presented in the federal text. On the contrary, INS officials have repeatedly stressed that they find an emphasis on "life skills" that incorporates some basic information about the U.S. the most appropriate approach for the lower levels.

Objectives for Certificate courses:

A certificate course may want to meet the following objectives:

1. understand the IRCA requirements. (see ENGLISH FOR LEGALIZATION)

2. develop the English skills needed to successfully complete the legalization process (see LEARNING ACTIVITIES)

3. gain the information needed to access services, assert one's rights, and stay out of trouble. (see PRACTICAL CIVICS DISCUSSION UNITS)

4. develop the English language skills necessary to understand and interact with members of the larger community (e.g. doctors, lawyers, teachers, landlords, police officers) and develop the coping skills necessary for solving problems with limited English. (see ENGLISH FOR COMMUNITY PARTICIPATION)

ENGLISH FOR LEGALIZATION

Content

This component should include information on where to apply, what information to provide, how to fill necessary forms, how to mail information, xeroxing important documents, dealing with originals, paying fees, getting necessary doctor's tests, requesting information on the phone or in writing, where and how to get help, protecting oneself against fraud, talking about the information on the application, dealing with the INS interviewer, protecting family members who may not be eligible.

Instructional Strategies

For lower level classes, bilingual support will be necessary if the classroom teacher is to get the basic requirements across to the students. If such support is not available in the classroom, consider the following strategies:

1. invite a legalization expert (not from the INS) that speaks the students' language to your class while you sit in. Both you and the students ask questions.

2. use videos that explain the legalization process in the first language (e.g. "Now What?" "Opportunity USA")

3. if students are literate in Spanish, use pamphlets from community advocacy groups such as NALEO or information bulletins published by newspapers (e.g. La Opinion in Los Angeles);

4. have students contact people from the community who might translate, give informed advice and answer questions.

LEARNING ACTIVITIES

To help students understand and act upon the legalization information, teachers may try the following strategies:

1. help students develop questions they want to ask in English or in the first language; ask them to work in groups to discuss the answers; ask your own questions and have students explain "what is what" to you.

2. if students are literate, have one group write questions and another group provide the answers based on videos, discussion or IRCA pamphlets.

3. have students make phone calls to legalization offices and ask for information (some have 800 numbers);

4. ask your students to write a letter or make a call to invite a guest speaker to discuss amnesty (have them work in groups so they can decide what they want to say and students with stronger language skills can help those with less developed literacy skills.)

5. give students plenty of practice in giving and receiving information, (direct conversation, on forms, over the telephone)

PRACTICAL CIVICS/DISCUSSION UNITS

Topics for the discussion units should reflect the concerns and interest of the students in the group as well as the orientation of the agency that sponsors the program. Besides a unit on how to achieve legalization, a course may include units Dealing with Sick Family Members, Solving Problems at Work, Getting around (transportation), Dealing with Housing Concerns, Understanding your Child's School, Fighting Discrimination, Going Back to School, Protecting Yourself Against Crime.

Legalization

Much of your time will probably be spent on a legalization unit. This unit can include the following communication strategies (or life skills competencies):

a. how to provide personal information about, name, age, address, place of birth, length of stay in the country, visits home, etc.; in person, over the phone, filling out forms; You may want to discuss the difference between taking about oneself to an acquaintance or to an interviewer.

b. how to deal with the post office (applications will be mailed); addressing envelopes, sending documents by certified mail; asking the postal clerk for information

c. how to deal with doctors (applicants need health certificates); where to find a doctor (INS has lists); making appointments,- in person and over the phone-, double checking dates, finding out if someone speaks your language, what questions to ask, -receptionist, - doctor, - nurse)

d. how to deal with important documents (originals, making copies, safe keeping, getting papers notarized)

e. how to pay fees (cash, checks, money orders)

f. how to deal with the INS interviewer (see coping skills in PART I.
POINT TO REMEMBER: Students at the lower levels will need a great deal of practice in these strategies. If quite a bit of reinforcement seems to be needed, similar activities can appear in different context within other units.

Expanding and Reinforcing Skills Needed for Legalization

The following activities can be used to help build the underlying proficiency necessary to complete the legalization process successfully:

a. giving personal information can appear in the context of an **employment application** (simplified forms are in most life skills books); disability forms or requests for unemployment compensation; in a unit on **schooling** (filling out forms for children to be enrolled - ask school district for examples), a unit on **transportation** (insurance forms, accident reports), doctors, etc.

b. dealing with money can appear as part of a unit on **housing** (how to pay the rent, what to do when you can't pay the rent, deposits and cleaning fees, contracts) transportation (how to buy a used car, how to pay traffic fines), etc.

ENGLISH FOR COMMUNITY PARTICIPATION

Linking History and Government to Students' Lives

Information on history and government will appear naturally throughout your unit on legalization and in the community related themes that you are trying to develop. For example,

1. students' legalization experience is, of course, connected to the Immigration Reform and Control Act, a law with great significance in the history and government of the U.S.

2. any time your students go to the post office, attend school, use a public clinic, pay taxes or talk to the INS, they are interacting with the city, county, state and federal levels of the government's executive branch;

3. students will learn to recognize government offices by the flag(s) and become aware that they are closed on national holidays such as Washington's Birthday, 4th of July, Thanksgiving.

4. whenever students fight a ticket, challenge an eviction notice or ask a legal aid agency to take an unscrupulous lawyer to court, they are interacting with the legislative branch;

5. any time your students deal with cash, they will encounter a president.

An "amnesty civics" curriculum can thus provide students with the opportunity to see how their lives are an integral part of U.S. history and government and how their experience helps shape the future. However, in order to assure SLIAG funding sources and the INS that you are indeed teaching history and government related to the federal textbooks, you may wish to list the competencies your students are acquiring and the terms and concepts they encounter separately.

Examples of Civic Competencies:

In this course students will work towards knowledge and understanding of U.S. history and government in the following manner:

1. Through discussion of the legalization process, students will become familiar with the 1986 IRCA and its historical implications. They will come to comprehend the significance of changing from illegal or undocumented status to permanent residency and possibly citizenship. They will understand the rights and obligations their new status will entail.

2. In the "practical civics/community participation" sections of the course, students will learn basic information about government run services (schools, clinics, post office) and about the court system that protects them against discrimination and fraud. Students will learn to become "good citizens" by becoming informed and by acquiring the language skills necessary to function successfully in society.

Partial List of Civics Concepts and Vocabulary to be Taught:

- immigration/immigrants/immigration office
- recent immigrants from Mexico, the Caribbean and Asia
- Immigration and Naturalization Service (INS)
- country, capital
- president(s)
- law, legal, illegal, legal aid,
- document;(I-9) undocumented;
- deport, deportation;
- permanent resident; temporary resident
- green card;
- citizen; citizenship; citizenship exam

* government, government offices (examples: schools, post office, clinics, police station; sheriff's office;

* American holidays

* Statue of Liberty

* the flag

* U.S. currency

* emergency signs and danger signs (i.e. poison)

* social security card

* Driver's license

SETTING PROGRAM STANDARDS

According to the INS, it is up to each program to decide whether the student is making satisfactory progress. To document such progress, a program is expected to:

a) describe what students should learn at each level

b) explain what students should be able to do with the information they have acquired (performance standards)

c) discuss measures for evaluating process

Examples of Possible Performance Levels for Lower Level Students.

Ordinary English

At the end of forty hours students will be able to understand questions and give information in English on the following topics:

* name and address; age; birthplace; occupation

Literacy in English:

At the end of forty hours, beginning students will be able to:

* write their name;

*recognize emergency signs presented in context (e.g. poison, danger, road signs, hospital, etc.)

History and Government

At the end of forty hours, students will be able to do the following:

* explain legalization requirements in their home language
* identify the U.S. flag; name the colors of the flag
* identify Washington and Lincoln on U.S. money;
* name the U.S. capital;
* identify a picture of the current president;
* give the emergency number for public services (fire, police)
* name holidays at which federal offices are closed
* identify and name common road signs
* provide personal information requested on common government forms
* give date of their legalization appointment

POINT TO REMEMBER: Performance standards are alternatively called competencies and functional skills. For additional examples of such competencies, see the CASAS list of competencies (see Bibliography) It is NOT necessary to have a standardized test to assess whether students are making progress nor is it necessary to set the same goals for all students. Programs can use indicators such as attendance, class participation, group interaction, and individual effort.

DOCUMENTING PROGRESS

1. Set realistic standards and be generous in assessing progress. Many of your students have not had positive experiences with schooling, have low levels of literacy (if any) in their first language and speak very little English. Remember that students who find the classes frustrating may drop out and disappear. Above all, do NOT allow your standards to become barriers for students who need a certificate to meet legalization requirements.

2. Consider your students. In developing curriculum content, set standards primarily in terms of what you think your students need and want to know (and your teachers can teach) and secondarily in terms of what you think the INS wants. We do not expect the INS to challenge a curriculum that legitimately meets the civic information and language needs of a particular group.

3. There is no requirement that indicates that applicants have to meet objective standards that are the same for each student. Programs are free to document achievement based on the progress **the individual student is making.**

As a basis for achievement, teachers can use

* attendance,
* participation,
* increased vocabulary
* increased knowledge
* greater willingness to become involved in group activities,
* increased use of language in pairs, groups or in the class as a whole,
* greater use of print (such as reading signs on classroom wall),
* greater ease in writing

Progress in the Affective Domain:

- greater self-esteem as witnessed in classroom behavior
- increased confidence in one's ability to learn
- greater enthusiasm towards classroom tasks,
- more positive attitude towards school
- greater willingness to take risks with new tasks

ESTABLISHING A RESPONSIBLE PROGRAM POLICY ON INS MONITORING

According to the final federal regulations on IRCA, INS has the right to monitor amnesty programs to deter and prevent unscrupulous service providers from taking advantage of amnesty applicants. While many programs share the INS concerns about "fly-by-night operators", they are equally concerned about the chilling effect that the possible presence of INS officials will have on their program. Service providers know that students will only attend courses if they trust the program, feel safe from harassment and can be assured that they are not putting at risk those friends and family members who may not qualify.

In addition, since many programs still serve the undocumented (who are entitled to educational services), they are concerned about the confidentiality of information regarding students who might face deportation. Thus, in order to protect students who may not be eligible for legalization and those at risk, and in order to safeguard the confidentiality of records for all students, you may wish to consider the following:

1. Be informed on what the regulations say about INS monitoring (see final regulations) and insist that the INS office follow these guidelines.

2. Work together with other agencies, including legal coalitions, to discuss the issue with the immigration service. Try to negotiate an agreement that allows a non-INS agency to take over the monitoring function and establish guidelines for reporting fraudulant providers. If the State Department of Education in your area is not able or willing to take over site visits, elect another agency to do so. (You may have to discuss funding). In many areas, certain agencies are already encharged with evaluating amnesty services; it should be possible to expand their function to assure INS of quality control. Make sure that you choose an agency that has experience in evaluating language programs or has a protocol for assessing such programs fairly.

<u>If the INS insits on monitoring programs, consider the following:</u>

3. Check with your local coalition to find out what procedures have been worked out so far. Meet with the local INS district director and express your concerns regarding INS presence on campus. (Assure INS officials that you are as concerned as anyone about the need to protect clients against fraud). Suggest that the INS may be too overworked to systematically evaluate

programs while another agency may have the manpower to do so. Offer to work out an **informal agreement** by which a designated non-INS agency monitors programs.

Also mention that the INS, lacking educational expertise, is not best qualified to judge the quality of the teaching that occurs in an amnesty program. Mention that the regulations seem to suggest that a curriculum and written program standards are to be evaluated (not actual program operations) and offer to discuss your program records at a neutral site away from your school.

You may also point out that INS presence on a campus can have a chilling effect on attendance overall and that if INS presence is suspected on site, students who need to legalize may disappear along with others. In addition, INS site visits may create fear and mistrust among applicants who cannot distinguish between the enforcement and the service function of the service.

4. Insist that the INS director work out a protocol that explains criteria for selecting programs to be monitored and standards for evaluation. (Programs have the right to know what they are being judged by). Negotiate details to make sure standards are fair and reasonable. Insist that students not be punished for the failure of a **program** to comply with INS regulations.

5. In conjunction with your local coalition, develop a "bill of rights" for programs that explains what information INS can legally request and what information must remain confidential. Explain under what circumstances the INS can remove records from the office.

6. If the INS insists on site visits, request that the INS NOT monitor your program during times when classes are in session and that they do not visit classrooms. Explain that you fear that the "chilling effect" of having immigration on campus would deter students from coming to classes since many of your students may have relatives who do not qualify for legalization.

7. Maintain separate records for INS inspection that only contain information pertinent to your providing responsible services to amnesty applicants (i.e. curriculum, federal text, description of class sizes, A numbers if required; Do NOT provide addresses.)

8. Do not maintain files on students who do not qualify for legalization or who may be at risk. Ask students who sign up for classes "Have you applied for temporary residence status?" If students have not applied, do not keep records that help trace students.

POINT TO REMEMBER

Although it is true that the INS may only have the manpower to monitor programs against which complaints have been filed, many responsible programs see it as a point of integrity to establish an explicit protocol that safeguards the confidentiality of all students to the greatest degree possible.

PART TWO: GREEN CARD ENGLISH AND MORE: A CURRICULUM FOR INS TEST TAKERS

A 60 hour course preparing students to complete the INS exams should be able to meet the following instructional objectives:

It must be capable of helping students

* understand the IRCA requirement and the legalization process (see **ENGLISH FOR LEGALIZATION)**

* understand, retain, and explain information from the federal textbooks and give answers to the INS questions; students may need additional information from other texts to build the necessary background knowledge. (see **CITIZENSHIP COMPONENT)**

* develop both INS literacy (filling out the necessary forms; writing a dictated sentence) and functional literacy (reading labels, notices, letters, stories, newspapers and writing notes, letters, stories) (see **INSTRUCTIONAL STRATEGIES)**

* be able to demonstrate orally their knowledge and understanding to an INS official and choose correct answers on a standardized test if they want to choose that option. (see **TEST TAKING STRATEGIES AND INTERVIEW COPING SKILLS)**

ENGLISH FOR LEGALIZATION:

This component should include information on

a. the legalization process, including rights and obligations under IRCA

b. the INS exam process, including format and typical test questions

c. what recourse is available if the process does not go smoothly, (e.g. not passing the test, application is denied); it may include information on what options are available to family members who may not qualify.
As time permits, this component might also include information on

d. the right to non-discrimination under the law

e. available resources such as social service or legal aid agencies that can be contacted for help

In order for this component to be taught successfully, teachers must either be thoroughly familiar with the regulations governing the legalization process or be aware of services and individuals that can guide their students.

What Happens at an INS Interview Exam?

1. To assess knowledge of "ordinary English" the examiner will ask general questions about the identity and background of the applicant. Questions are taken from the application form that the person has submitted and may include questions about where the person went to school and what he/she studied.

2. To assess a knowledge and understanding of U.S. history and government, the examiner is expected to choose from a list of one hundred (100) pre-selected question based on the content of two of the federal texts (U.S. History and U.S. Government Structure). The examiner is supposed to take into account the language level, educational background, and special circumstances of the applicant. This may not always happen since examiners have had no special training in rephrasing questions to simplify information, in coaching a person who may have trouble explaining an answer or in understanding heavily accented English.

3. To assess literacy in English, the examiner may ask the person to read and write three sentences from a pre-selected list of twenty sentences. In order to pass, the applicant will need to read and write one of the three sentences correctly. (Criteria for acceptable sentence are not available.)

Instructional Strategies

As you prepare students to successfully complete the legalization process, keep in mind the following instructional principles:

1. Present information in the form of activities, not lectures. These activities may be in the form of group discussions; question and answer sessions; analysis of case studies of other applicants; comments on newspaper articles on amnesty (articles can be read in the first language); phone calls to legalization hot lines; draft letters to get information in writing.

2. Make your teaching interactive, student centered, and focus on learning by experience. Have students work in groups and guide them in making calls to the INS, immigrant coalitions and legal rights groups; contact legal aid agencies to see if guest speakers are available; interview immigrants who have already gone through the INS interview (legalization or citizenship; report back in English on newspaper articles and radio or television news programs that discuss amnesty information in the first language. It may also be possible to enlist such students in outreach efforts, asking them to contact community members who may not be aware of how to meet Phase II requirements.)

CITIZENSHIP COMPONENT

This component should include the following:

Information from the Federal Textbook series and other books developed specifically for amnesty programs. We recommend the **Of the People**, a text developed by the Center for Applied Linguistics and available through the Government Printing Office); text materials may be supplemented by videos, films, and poetry and stories written by immigrants themselves.

Instructional Strategies

Since many of the amnesty applicants may not have had much experience with dealing with academic texts or abstract concepts (such as the three branches of government), they may need support in "learning how to learn." The following strategies will be helpful:

1. Developing interest

a. Present students with a brief overview of a section in the book.

b. Use a picture, an easy poem, a story, a few lines from a text to "hook" the students and get them interested.

c. Ask students questions to find out which concepts they are familiar with in their own language.

d. Help them discover how the information connects to their own lives

2. Helping Students Understand and Remember Citizenship Content

a. Use reading strategies that help students find main ideas. (e.g. try skimming and scanning, as well as predicting ideas from pictures and from headlines.) Encourage students to focus on ideas, not just words on the page.

b. Encourage students to guess what a picture, a sentence or a new word may mean from the context in which it appears. Then show them how to reconfirm their guesses; discourage the use of dictionaries.

c. As time permits, include poems and stories that tell about U.S. history from an immigrant perspective; ask students to tell their own story into a tape recorder, type up their stories, have the class read them and use them as a basis for dictation.

POINTS TO REMEMBER:

1. As you work with the applicants,try to minimize frustration and build confidence instead. Help your students gain the necessary self-assurance. Amnesty applicants need to feel that they can acquire the knowledge needed for the test and that they can hold their own in the interview.

2. If you have students that seem overwhelmed by the INS questions, emphasize that no one has to take the test (each student should have the option of receiving a certificate after 40 hours. If individuals are not "getting" the information needed to pass the INS exam, stress their strengths in other areas and provide activities that promote confidence (discussions in the native language, sharing of life experiences, etc.) NO student should be allowed to feel like a failure because he or she cannot remember dates or events from the federal text book series.

DEVELOPING TEST TAKING STRATEGIES

Even if your students understand the information from the federal text and seem to do well in your courses, they may not be prepared to pass the INS exam. Remember that the exam presents a high pressure situation inasmuch as the students may be fearful and distrustful of the INS official and feel that their entire existence in the U.S. is at stake.

In addition, many of the students will find it difficult to understand the examiner's questions and predict what answer may be expected. A large number of students may never have taken a test of any kind and may need to be familiarized with the format of both a written and an oral exam.

To give the students practice in test taking and dealing with examiners, we recommend the following

Instructional Strategies:

a. Let students know what will happen on the INS exam (see above) and give them plenty of practice taking an oral or a written test (INS or ETS). Help them develop strategies for coping with misunderstandings and problems (memory blocks, confusion, nervousness) and for dealing with examiners who may be less than sympathetic or appear intimidating.

b. Dictate sentences for students to write down. Use information about the students for content. Mix straight sentences with interesting, silly, or controversial statements. Vary your speed (and if you can, accent) as you speak so students get used to hearing different styles. Ask students to dictate sentences to each other.

c. Purposefully mumble at times or talk too fast and show students how they can ask you to slow down, rephrase, explain, etc. Show students how to say those things without sounding offensive.

d. ask students to "guess" the correct answer and explaining why you think an answer is right (without actually knowing the answer) "Educated guessing" increases comprehension skills and builds confidence.

e. have students rephrase test questions to make them easier to understand ("what do you think this question means? "how else could you say that?")

f. ask students to find the "wrong" answers on multiple choice test and explain which of the answers can be eliminated even if one does not know the answer.

g. have students look for key words in a question and using brainstorming and free association to discover possible answers.

NOTE: (These strategies can be built around quick oral quizzes, group problem solving, co-operative learning and team contests; also possible are "Jeopardy" or "Concentration" type games that re-enforce difficult vocabulary.)

DEVELOPING COPING SKILLS FOR INTERVIEW SITUATIONS

No matter how hard they study, your students will never be completely prepared for any eventuality of the interview situation. The examiner may talk to fast or ask questions that they don't understand or applicants may be so nervous that they forget what they previously knew. In order to prepared for the unexpected, they need to learn how rely on their wits and their social skills.

Instructional Strategies

In order to feel confident that they can survive even awkward or difficult situations, students need practice in using the following communication strategies:

a. asking for clarification and rephrasing (e.g. "I'm not sure what you mean." "Can you repeat the question? Could you say that in a different way?")

b. asking the examiner to speak more slowly or clearly. (e.g. "I didn't

understand; could you say that again more slowly?)

c. buying time (e.g. "Can I think about this for a minute? I think I know the answer")

d. admitting a problem without losing face (I'm sorry I can't remember X, but I do remember Y)

e. asking for help ("I'm sorry, I don't remember the answer. I only had one citizenship class. Could you ask me another question?)

f. coming across as "regular guy" (dressing as one would for a court appearance, watching for signals to shake hands, maintaining appropriate eye contact, appropriate distance)

g. appearing knowledgeable ("I took a class and studied X, Y, and Z; but I don't remember this question)

h. throwing yourself at the mercy of the examiner. ("I'm sorry, my English is still not very good. I studied everything. But now I forgot.")

(Examiners are supposed to take background and ability into account when examining knowledge.)

POINT TO REMEMBER:

Merely asking students to memorize questions and answers without helping them to integrate the content with their own experience is pedagogically unsound and educationally irresponsible.

Chapter 11

Still in the Shadows: The Undocumented

The amnesty program excluded far more aliens than it included. The groups who were left out of amnesty include a large population of refugees from the wars in Central America, who arrived after 1982; the ineligible spouses, parents and children of amnesty applicants; eligible persons who did not know about the program or were afraid to apply; and the ever-increasing number of new undocumented persons who cross the border in search of jobs or refuge from war.

The situation of the undocumented population is far more difficult now than it was before the passage of IRCA, since the employer sanctions provisions are making it harder for them to find work. It is clear, however, that the population will remain and will continue to try to find work. A full discussion of questions concerning the undocumented population is beyond the scope of this book. Below are important facts about the situation, and suggestions for referrals.

1. Right to work. Employers should not require work authorization from employees hired before November 7, 1986. There is no penalty for keeping such employees, even if you know that they have no authorization, and you cannot be required to show the INS forms I-9 for them.

2. Coalitions have projects dealing with concerns of the undocumented. Also, coalition hotlines should be able to direct undocumented persons to available resources. See Appendices.

3. Some people may still be able to apply for amnesty. As a result of court battles, the deadline to apply for the pre-82 legalization program is still open for certain people who are eligible but were wrongly discouraged from applying during the program. At this writing, this includes persons who did not apply because they had entered the U.S. using a visa after 1982, or who left the U.S. without permission after November 6, 1986.

4. Many undocumented persons qualify for some sort of lawful immigration status other than amnesty. They should contact a local coalition, hotline or community agency for a referral for immigration counseling. They may complete the worksheet at the end of this chapter as a start in trying to identify ways to get lawful status.

5. The "Family Fairness" Program. Many families have been split because of the amnesty program: some members qualified and now live in status, while others did not participate and remain fearful of the INS and unable to obtain work authorization. The INS created an informal "Family Fairness" program which offers the possibility of temporary lawful status and work authorization to some family members of temporary residents. In response to public pressure, the program was recently upgraded and now offers realistic relief to certain relatives of legalized aliens. An automatic one year grant of permission to live and work in the United States will be granted to an applicant who:

a) is the spouse or unmarried child under 18 of a person who obtained temporary or permanent residence under the legalization or SAW program;

b) entered the United States (and, in the case of a spouse, married the legalized alien) before November 6, 1986, and currently resides with the legalized alien;

c) is not excludable and has not been convicted in the United States of three misdemeanors or one felony; and

d) has not persecuted others on the basis of race, national origin, religion, political opinion or social group.

The one year grant may be extended. Applicants who are denied family fairness may be brought under deportation proceedings and deported, so applicants should be certain that they are eligible before applying.

The people who are left out of this version of Family Fairness are those who came to the United States since November 6, 1986. While the INS has the power to grant the same relief as a matter of discretion, these relatives generally should not apply under the Family Fairness program without competent legal counseling, as they may be denied family fairness and deported. However, the INS has stated that non-U.S. citizen children of legalized aliens who were born after November 6, 1986 will not be deported.

6. The "Know Your Rights" Campaign: What to Do in an INS Raid. The INS frequently raids businesses and residential areas seeking undocumented persons. Undocumented persons can protect themselves in an INS raid by doing something which is simple in theory but may be difficult in practice: they should **politely refuse to speak to the INS.** If they do not speak the INS probably will not be able to convince a judge to deport them; the legal basis for deporting nearly all aliens arrested in raids is their own confession.

Tell your workers and students that if an INS raid takes place and an officer is near them they should not run away, but should continue to work calmly. If the officer grabs them or asks questions, they should say, "I don't wish to speak with you. Am I free to go?" If the officer persists and arrests them, they should continue to politely refuse to give information, and demand to speak to an attorney. They should not give their name, address, country of nationality, last entrance into the United States, place of birth, or any other information which could show that they are not a U.S. citizen or have ever been outside the United States.

The officer may try to pressure the person into talking by threatening a long detention period, but in reality the person must be released within a few days if he or she continues to refuse to talk. In some extreme cases INS officers have made physical threats or even physical attacks. Where possible, the person should maintain silence and repeatedly demand to speak with an attorney. **There is absolutely no legal disadvantage, other than a short period of detention, in insisting upon talking with an attorney before talking with the INS agent.**

6. Work Alternatives for Undocumented Persons. Many undocumented persons are unable to find work without employment authorization because of the employer sanctions provisions. Some are banding together in innovative legal arrangements to create partnerships or collectives which may not be covered by employer sanctions. For example, women may form a housecleaning collective as a partnership, or try to ensure that they come within the definition of independent contractors. See, for example, Alternative Employement Strategies for Immigrants and Refugees, Coalition for Immigrant and Refugee Rights. To order send $5 for 3 booklets to CIRRS, 2111 Mission St., Room 401, San Francisco, CA 94110.

Recall that undocumented persons do not need employment authorization if they have held their current job since November 6, 1986.

SCREENING QUESTIONS FOR INELIGIBLE FAMILY MEMBERS

These questions may be used as a first step to help persons who were not eligible for amnesty programs, to see if they might be eligible for legal status in other ways. People who answer yes to any of the following questions should be referred to immigration agencies or attorneys for counseling. See Chapter 13 of the Phase II Manual (or Chapter 9 in the manual on Phase I) for more details.

1. Have you lived in the United States for seven years? Ha vivido en los Estados Unidos por 7 anos?

(Might be eligible for suspension of deportation)

2. Do you have a U.S. citizen parent, spouse, child (over 21), brother or sister? Do you have a lawful permanent resident spouse or parent? Tiene usted un padre, esposo(a), hijo(a) (mas de 21 anos), o hermano(a) que es ciudadano de los Estados Unidos? Tiene usted un padre o esposo(a) que es residente permanent legal?

(Might be able to be the beneficiary of a visa petition. In general, U.S. citizens can immigrate their relatives more rapidly than permanent residents. Persons from Mexico, the Philippines, and Hong Kong who immigrate through relatives who are permanent residents must wait several years to get legal status; persons from other countries who immigrate through permanent resident relatives currently must wait about a year and a half. The relatives may apply for U.S. citizenship five years after gaining permanent residence.)

3. Do you have a temporary resident spouse or parent? Tiene usted un padre o esposo(a) que es residente legal temporal?

(The temporary resident can submit a visa petition when he or she becomes a permanent resident. Temporary residents who need to immigrate their relatives should apply for permanent residence, and in five years citizenship, as soon as they are eligible.)

4. What country are you from? Are you afraid to return for any reason? De que pais es usted? Tendria miedo de regresar a su pais?

(If from Central America or other areas of war or human rights abuse, might be eligible to apply for political asylum. However, applicants must receive expert counseling before they apply, since they could eventually be deported if they lost the case.)

5. Have you lived in the United States since January 1, 1972? Ha vivido en los Estados Unidos desde el 1 de enero, 1972?

(Might be eligible for registry.)

6. Were you or your spouse's parent or grandparent born in the U.S. or granted U.S. citizenship? Son sus padres o abuelos o los padres o abuelos de su esposo(a) nacidos en los Estados Unidos; o se les ha dado la ciudadania?

(The person or the person's spouse should be referred to an immigration expert to see if he or she may have unknowingly obtained U.S. citizenship. The laws governing this area are complex; make sure the counselor is familiar with them.)

7. Would your employer help you immigrate? Le ayudaria a usted su patron?
(Certain employment - such as live-in child monitor or specialty chef - might be a basis for a visa petition through a complex procedure to obtain labor certification.)

c:screening

APPENDIX A

Testing options: 100 questions for History and Government, and 20 dictations to assess literacy)

Appendix 4-a

Questions for the INS English/Civics Exam

1. What are the colors of our flag?
2. How many stars are there in our flag?
3. What color are the stars on our flag?
4. What do the stars on the flag mean?
5. How many stripes are there in the flag?
6. What color are the stripes?
7. What do the stripes on the flag mean?
8. How many states are there in the Union?
9. What is the 4th of July?
10. What is the date of Independence Day?
11. Independence from whom?
12. What country did we fight during the Revolutionary War?
13. Who was the first President of the United States?
14. Who is the President of the United States today?
15. Who is the Vice-President of the United States today?
16. Who elects the President of the United States?
17. Who becomes President of the United States if the President should die?
18. For how long do we elect the President?
19. What is the Constitution?
20. Can the Constitution be changed?
21. What do we call a change to the Constitution?
22. How many changes or amendments are there to the Constitution?
23. How many branches are there in our government?
24. What are the three branches of our government?
25. What is the legislative branch of our government?
26. Who makes the laws in the United States?
27. What is Congress?
28. What are the duties of Congress?
29. Who elects Congress?
30. How many senators are there in Congress?
31. Can you name the two senators from your state?
32. For how long do we elect each senator?
33. How many representatives are there in Congress?
34. For how long do we elect the representatives?
35. What is the executive branch of our government?
36. What is the judiciary branch of our government?
37. What are the duties of the Supreme Court?
38. What is the supreme law of the United States?
39. What is the Bill of Rights?
40. What is the capital of your state?
41. Who is the current governor of your state?
42. Who becomes President of the United States if the President and the Vice-President should die?
43. Who is the Chief Justice of the Supreme Court?
44. Can you name the thirteen original states?
45. Who said, "Give me liberty or give me death?
46. Which countries were our enemies during World War II?
47. What are the 49th and 50th states of the Union?
48. How many terms can a President serve?
49. Who was Martin Luther King, Jr.?
50. Who is the head of your local government?

51. According to the Constitution, a person must meet certain requirements in order to be eligible to become President. Name one of these requirements.
52. Why are there 100 Senators in the Senate?
53. Who selects the Supreme Court Justices?
54. How many Supreme Court Justices are there?
55. Why did the Pilgrims come to America?
56. What is the head executive of a state government called?
57. What is the head executive of a city government called?
58. What holiday was celebrated for the first time by the American colonists?
59. Who was the main writer of the Declaration of Independence?
60. When was the Declaration of Independence adopted?
61. What is the basic belief of the Declaration of Independence?
62. What is the national anthem of the United States?
63. Who wrote the Star-Spangled Banner?
64. Where does freedom of speech come from?
65. What is the minimum voting age in the United States?
66. Who signs bills into law?
67. What is the highest court in the United States?
68. Who was President during the Civil War?
69. What did the Emancipation Proclamation do?
70. What special group advises the President?
71. Which President is called the "Father of our country"?
72. What Immigration and Naturalization Service form is used to apply to become a naturalized citizen?
73. Who helped the Pilgrims in America?
74. What is name of the ship that brought the Pilgrims to America?
75. What were the 13 original states of the U.S. called?
76. Name 3 rights or freedoms guaranteed by the Bill of Rights.
77. Who has the power to declare war?
78. What kind of government does the United States have?
79. Which President freed the slaves?
80. In what year was the Constitution written?
81. What are the first 10 amendments to the Constitution called?
82. Name one purpose of the United Nations.
83. Where does Congress meet?
84. Whose rights are guaranteed by the Constitution and the Bill of Rights?
85. What is the introduction to the Constitution called?
86. Name one benefit of being a citizen of the United States?
87. What is the most important right granted to U.S. citizens?
88. What is the United States Capitol?
89. What is the White House?
90. Where is the White House located?
91. What is the name of the President's official home?
92. Name one right guaranteed by the first amendment.
93. Who is the Commander in Chief of the U.S. military?
94. Which President was the first Commander in Chief of the U.S. military?
95. In what month do we vote for the President?
96. In what month is the new President inaugurated?
97. How many times may a Senator be re-elected?
98. How many times may a Congressman be re-elected?
99. What are the 2 major political parties in the U.S. today?
100. How many states are there in the United States?

Answers

1. Red, White, and Blue
2. 50
3. White
4. One for each state in the Union
5. 13
6. Red and White
7. They represent the original 13 states
8. 50
9. Independence Day
10. July 4th
11. England
12. England
13. George Washington
14. Ronald Reagan
15. George Bush
16. The electoral college
17. Vice-President
18. Four years
19. The supreme law of the land
20. Yes
21. Amendments
22. 26
23. 3
24. Legislative, Executive, and Judiciary
25. Congress
26. Congress
27. The Senate and the House of Representatives
28. To make laws
29. The people
30. 100
31. (insert local information)
32. 6 years
33. 435
34. 2 years
35. The President, cabinet, and departments under the cabinet members
36. The Supreme Court
37. To interpret laws
38. The Constitution
39. The first 10 amendments of the Constitution
40. (insert local information)
41. (insert local information)
42. Speaker of the House of Representatives
43. William Renquist
44. Connecticut, New Hampshire, New York, New Jersey, Massachusetts, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, Georgia, Rhode Island, and Maryland
45. Patrick Henry
46. Germany, Italy, and Japan
47. Hawaii and Alaska
48. 2
49. A civil rights leader
50. (insert local information)
51. Must be a natural born citizen of the United States; Must be at least 35 years old by

the time he/she will serve; Must have lived in the United States for at least 14 years
52. Two (2) from each state
53. Appointed by the President
54. Nine (9)
55. For religious freedom
56. Governor
57. Mayor
58. Thanksgiving
59. Thomas Jefferson
60. July 4, 1776
61. That all men are created equal
62. The Star-Spangled Banner
63. Francis Scott Key
64. The Bill of Rights
65. Eighteen (18)
66. The President
67. The Supreme Court
68. Abraham Lincoln
69. Freed many slaves
70. The Cabinet
71. George Washington
72. Form N-400, "Applicaton to File Petition for Naturalization"
73. The American Indians (Native Americans)
74. The Mayflower
75. Colonies
76. Freedom of speech, religion and press
77. The Congress
78. Republican
79. Abraham Lincoln
80. 1787
81. The Bill of Rights
82. For countries to discuss and try to resolve world problems; to provide economic aid to many countries.
83. In the Capitol in Washington, D.C.
84. Everyone (citizens and non-citizens living in the U.S.)
85. The Preamble
86. Obtain federal government jobs; travel with a U.S. passport; petition for close relatives to come to the U.S. to live
87. The right to vote
88. The place where Congress meets
89. The President's official home
90. Washington, D.C. (1600 Pennsylvania Avenue, N.W.)
91. The White House
92. Freedom of: speech, press, religion, peaceable assembly, and, requesting change of the government
93. The President
94. George Washington
95. November
96. January
97. There is no limit
98. There is no limit
99. Democratic and Republican
100. Fifty (50)

APPENDIX B

Resources

compiled by Lynn A. Starr

Resource Centers

AILA Immigration Project
1000 16th Street, N.W., Suite 604
Washington, D.C. 20036
(202)331-0046

American Council for Nationalities Service
95 Madison Avenue
New York, NY 10016
(212)532-5858

California Rural Legal Assistance (CRLA)
2111 Mission Street, Suite 401
San Francisco, CA 94111
(415)864-3405
(800)543-9229 (SAW Hotline)

Center for Immigrants Rights (CIR)
48 St. Marks Place
New York, NY 10003
(212)505-6890
(212)353-9690 Employer sanctions hotline

Florida Rural Legal Services, Inc.
P.O. Drawer 1499
305 North Jackson Ave.
Bartow, FL 33830
(813)534-1781

Haitian Refugee Center/Sant Refijye
Ayisyen Inc.
32 Northeast 54th Street
Miami, FL 33137
(305)757-8538

Immigrant Legal Resource Center (ILRC)
536 Mission Street, Room 269
San Francisco, CA 94105
(415)442-7294

1395 Bay Road
East Palo Alto, CA 94303
(415)853-1600

Immigration Project of the
American Bar Association
1800 M Street, N.W.
Washington, D.C. 20036
(202)331-2268

LEAP Immigration Project
810 Third Avenue, Suite 330
Seattle, WA 98104
(206)382-2519
(800)445-5771

Mexican-American Legal Defense Fund (MALDEF)
1430 K Street, N.W., Suite 700 West
Washington, D.C. 20005
(202)628-4074

National Association of Latino Elected Officials (NALEO)
708 G Street, S.E.
Washington, D.C. 20003
(202)546-2536
(800)44N-ALEO
(800)34N-ALEO (from California only)

National Center for Immigrants' Rights (NCIR)
1636 West 8th Str., Suite 215
Los Angeles, CA 90017
(213)487-2531

National Center for Immigrants' Rights, Inc. (NCIR, Inc.)
256 South Occidental Boulevard
Los Angeles, CA 90057
(213)388-8693

National Council of La Raza
20 F Street, N.W., 2nd Floor
Washington, D.C. 20001
(202)628-9600

National Immigration Project
of the National Lawyers Guild
14 Beacon Street, Suite 506
Boston, MA 02108
(617)227-9727

Travelers and Immigrants Aid
327 South LaSalle Str., Suite 1500
Chicago, IL 60604
(312)435-4500

United States Catholic Conference (USCC)
1312 Massachusetts Ave, N.W.
Washington, D.C. 20005
(202)659-3175

Southern Arizona Legal Aid, Inc.
160 East Alameda
Tuscon, AZ 85701
(602)623-9461
(800)234-7252

Texas Legal Services Center
815 Brazos Street, Suite 1100
Austin, TX 78701
(512)477-6000

COALITIONS

Coalition for Immigrant and Refugee Rights and Services(CIRRS)
2111 Mission Street, §401
San Francisco, CA 94110
(415)626-2360
(415)554-2444 (client assistance)

Coalition for Human Immigrants' Rights of Los Angeles (CHIRLA)
621 South Virgil Avenue
Los Angeles, CA 90005
(213)736-1307

Santa Cruz County Immigration Project
406 Main Street, Suite 217
Watsonville, CA 95076
(408) 724-2253

National Network for Immigrant and Refugee Rights
310 8th Street, Suite 307
Oakland, CA 94607
(415)465-1984

Orange County Coalition for Immigrant Rights (OCCIR)
1300 South Grand, Building B
Santa Ana, CA 92705
(714)567-7470

Inland Empire Latino Lawyers Assoc.
4366 Bermuda Ave.
Riverside, CA 92507
(714)369-3009

San Diego Immigration Law Coalition
San Diego Law Center
Alcala Park
San Diego, CA 92110
(619)260-4815

Ventura County Coalition for Immigrants' Rights
528 South A Street
Oxnard, CA 93030
(805)486-4587

Coalition of Florida Farmworker Organizations
20 South Krome Ave.
Homestead, FL 33030
(305)247-4779

Chicago Committee on Immigrant Protection
327 LaSalle Street, Suite 1500
Chicago, IL 60604
(312)435-4557

Michigan Legalization Coalition
c/o Archdiocese of Detroit
305 Michigan Avenue
Detroit, MI 48226
(313)965-2012

Massachusetts Immigrant and Refugee Advocacy Coalition (MIRA)
178 Tremont Street, 9th Floor
Boston, MA 02111
(617)357-6000 ext. 448

National Coalition for Haitian Refugees
275 7th Avenue, 11th Floor
New York, NY 10001
(212)41-6152

New York Immigration Coalition
330 7th Avenue, 10th Floor
New York, NY 10001
(212)268-9770

APPENDIX C

RESOURCES

Appendix C

RESOURCES

I. Bibliographies

II. Special Classroom Materials

A. Officially Approved Texts
B. Non-Traditional ESL Civics/Literacy
C. Employment Related Communication Skills

III. Curriculum Development & Program Development

IV. Hotlines

V. Newsletters

VI. Tests

VII. Legalization Guides

VIII. Research: Papers/Articles/Public Hearings/Surveys

IX. Videos

SECTION 1: BIBLIOGRAPHIES

1. CASAS (Comprehensive Adult Student Assessment System), 1088. Curriculum Guide for IRCA ESL Programs

   Contains (1) a list of IRCA competencies for English and Civics, (2) an IRCA bibliography, and (3) a CASAS score scale with descriptions of Student Performance Levels (SPLs)

   to order, call (619) 298-4681

2. Northwest Educational Cooperative, Aug. 1988. **Legalization and Citizenship Materials, A Selected Bibliography.** Illinois ESL Adult Education Service Center.

   Contains sections on citizenship texts, U.S. history texts, government supplements, Bilingual/native language texts, teacher resources and names and addresses of publishers and suppliers. DOES NOT YET INCLUDE "Of the People" by the Center for Applied Linguistics, the authorized ESL version of the federal text on U.S. government.

   to order, call (312) 803-3535.

SECTION II: SPECIAL CLASSROOM MATERIALS

A: Officially Approved Texts

1. **Of the People, By the People, for the People** Center for Applied Linguistics: from the government printing office. Simplified interactive version of the federal U.S. Government Text. Recommended for citizenship classes that prepare students for the test.

B: Non-Traditional ESL/Civics/Literacy

1. **Don't Be Afraid, Gringo: A Honduran Woman Speaks from the Heart: The Story of Elvia Alvarado,** Medea Benjamin (Trans. and Ed.). San Francisco: The Institute for Food and Development Policy, 1987. Pp. vii + 171.(Available from Institute for Food and Development Policy, 145 Ninth St. San Francisco, CA 94103)

2. **English at Work: A Tool Kit for Teachers,** Deborah Barndt (Coordinator). North York, Ontario: CORE Foundation. (Available from CORE Foundation 5050 Yonge St., North York, Ontario, Canada M2N 5N8).

3. **ESL for Action : Problem Posing at Work,** Elsa Robert Auerbach and Nina Wallerstein Reading. MA: Addison-Wesley 1987. Pp.xii + 176.

4. **Getting There: Producing Photostories with Immigrant Women,** Deborah Barndt, Ferne Cristall, and Dian Marino. Toronto: Between the Lines, 1982. Pp. 110 (Available from Participatory Research Group 394 Euclid Ave. # 308 Toronto, Ontario, Canada M6G 2S9).

5. **The Immigrant: Our Rights and Responsibilities,** Javier Juarez for the Coalition for Immigrant and Refugee Rights and Services 1989. Comic Book series in English and Spanish addresses issues concerning the second phase, use of social services and ESL/Civics classes. Contact: CIRRS 2111 Mission St. #401 San Francisco, CA 94110 (415) 626-2360.

6. **In Print: Beginning Literacy Through Cultural Awareness,** Lynellyn D. Long and Janet Spiegel-Podnecky. Reading, MA: Addison-Wesley, 1988. Pp. vi + 186.

7. **Need I Say More: A Literary Magazine of Adult Student Writings,** Boston: Publishing

for Literacy Project. (Available from Kona Shasu, Project Coordinator, Publishing for Literacy, Adult Literacy Resource Institute. C/O Roxbury Community Colege, 1234 Columbus Ave., Boston, MA 02120).

8. **The Stanford Amnesty Lesson Plan**. Immigrant Legal Resource Center, 1989. Developed by Stanford Department of Education students, seven lesson units approximately three class hours each include hand-outs, color slides, teacher materials, geared to interactive activities among classes of non-literate and literate students. (Available from ILRC, 1663 Mission St., Rm. 602, San Francisco, CA 94103, $50.)

9. **Tell Me About It: Reading and Language Activities Around Multi-Cultural Issues Based on an Oral History Approach.** Azi Ellowitch, Philadelphia: LaSalle University, Urban Studies and Community Services Center, 1986. Pp. vi+150 (Available from Urban Studies and Community Services Center of LaSalle University, 5501 Wister St. Philadelphia, PA 19144)

10. **The Story of Ana, La Historia de Ana.** Ely Patricia Martinez Vasquez (with the help of Ana Lorena Sanarabia and others). Pasadena, CA: Hope Publishing House, 1986. Pp. 25. (Available from Hope Publishing House, P.O.Box 60008, Pasadena, CA 91106)

11. **Voices: New Writers for New Readers.** Surrey, British Columbis: Lower Mainland Society for Literacy and Employment. (Available from Voices, 14525 110A Avenue, Surrey, British Columbia, Canada V3R 2B4)

12. **Women's Kit.** Toronto: Participatory Research Group/ICAE Women's Program. 1987. (Available from Participatory Research Group, 395 Euclid Ave. #308, Toronto, Ontario, Canada M6G 2S9).

Note: Most of these materials are annotated in the TESOL Quarterly of June 1989.

C: Classroom Materials for Employment

1. **Communicating in the Real World: Developing Communication Skills For Business and The Professions.** Wiley, Terrance and Wrigley, Heide Spruck. New York, NY: Prentice Hall, 1987.

2. **Cross Cultural Communication On-The-Job: 3B CASE Studies.** Nulty, Margaret Piper. Sunnyvale, CA: Bilingual Center at De Anza College, 1985. (Text and Computer assisted instruction formats)

3. **English That Works.** Savage, Lynn, et.al. Glenview, Il: Scott Foresman & Company 1982.

4. **ESL for Action: Problem Posing at Work.** Auerbach, Elsa Roberts: Wallerstein, Nina. Reading, Mass.: Addison-Wesley, 1987.

5. **Let's Work Safely.** Mrowicki, Linda: Furnborough, Peter. Palatine, IL: Linmore Publishing, 1984.

6. **May I Help You? Learning How to Interact with the Public.** Wrigley, Heide. Reading, MA: Addison-Wesley, 1987.

7. **Speaking Up At Work.** Robin, Catherine; Rowen Comp, Jenise. New York, New York 1985.

8. **The Working Culture. Career Development for New Americans, Vol.I&II**. Hemphill, David: Pfaffenberger, Barbara: Hockman, Barbara. EnglewoodCliffs, New Jersey: Prentice Hall Regents 1989.

9. **WorkPlays: You and Your Rights on the Job**. Bronstein, Erica. This hour-long video takes a problem-posing approach to integrating workplace rights, safety and health issues and information in the intermediate/advanced ESL classroom. Accompanied by a 100 page workbook with student worksheets and five fact sheets in Spanish and Portuguese. $60. Contact Erica Bronstein, Labor Education Center, Southeastern Massachusetts University, North Dartmouth, MA 02747 (508) 999-8007.

SECTION III CURRICULUM & PROGRAM DEVELOPMENT

1. **CASAS-Curriculum Guide for IRCA ESL Programs.** Oct. 1988. San Diego Community College District Foundation. (619) 298-4681 for information or order forms.

2. **ESL/CIVICS: Planning and Implementing English and Civics Programs.** National Council of La Raza and American Council for Nationalities Service (ACNS).

   American Council for Nationalities Service
   95 Madison Ave. 3rd.Fl.
   New York, NY 10016
   Cost: $12.50

3. **Legalizing Farmworkers and their Families: Program Policy and Implication.** Available from California Human Development Corporation. For Information call Chris Page at (707)523-1155.

4. **Legalization Phase Two: Applying for Permanent Residence.** Immigrant Legal Resource Center. Resource guide for agencies setting up amnesty preparation programs. Contains a chapter on recommendations for program design and curriculum development. Send $12 to ILRC, 1663 Mission St., Rm 602, San Francisco, CA 94103, Attn: Phase II Manual.

5. **Teach the Students, Not the Book: Preparing Students for Legalization.** Contains curriculum guidelines and instructional strategies for course developers and amnesty teachers. Includes suggestions for a "practical civics" curriculum for the lower levels. Available for $4.50 from:

   IRLI Net/Long Beach Foundation
   Center for Career Studies
   California State University, Long Beach
   Long Beach, CA 90840

6. **Teleconference**

   The California State Department of Education is offering a teleconference on IRCA throughtout the state. Individuals may still participate at designated sites. Other states may hook up to be part of the conference. Tapes of the training sessions can be purchased in California at a subsidized price for SLIAG funded programs. Programs in other states will pay the regular price. For details call Dawn Stoll at CASAS (619) 298-4681.

7. **ESL Civics Integration: A Guide for Curricula Development and Integration.** Materials from California State Department of Education. Contact Autumn Keltner at State Department of Education Amnesty Education Office at (916) 323-2560.

SECTION IV: HOTLINES

National

1. INS: Certified Schools (800) 842-2924
2. NALEO: IRCA information (800) 44-NALEO

California

Southern California:

1. INS (800) 448-4994 (Application Issues)
2. Labor Immigrant Assistance Project (AFL-CIO) (213) 381-2170- Call for appointment for weekly public information seminar and question and answer sessions
3. Naleo IRCA Information (800) 34-NALEO
4. OCCIR (Orange Co. Coalition for Immigrant Rights) (714) 547-5746
5. Catholic Charities (San Diego Area) (619) 277- 0538
6. SIDA Hotline (for applicants who tested positive for HIV test) Call 1 (800) 222-7432
7. Law Hotline/Legal Aid
   Los Angeles County 800-242-4612
   Riverside County 800-336-4636
8. Immigration Fraud Victims (Orange Co. only) 800-952-5225
9. MALDEF-Hotline for Employers (213) 629-2721

Northern California:

1. Northern California Coast (800) 446-5998
2. SAW Hotline (800) 543-9229
3. Immigrant Assistance Line (415) 544-2444 (Coalition for Immigrant and Refugee Rights)

Illinois:

1. Illinois State Board of Education, Adult Ed. Section. Managed by Northwest Educational Cooperative Service available in several languages (800) 237-1405.

New York:

1. Immigrant Hotline
   (800) 232-0212
   (718) 899-4000 (New York City only)

2. Literacy Program Information
   (800) 331-0931
   (212) 267-6000

HOTLINES CONT.

Texas:

1. Diocese of El Paso Migrant and Refugee Services
(800) 331-6695 (encompasses part of Arizona)

2. San Antonio Legalization Education Coalition
(800) 331-6695

Massachusetts:

1. Massachusetts Coalition for Adult Literacy
(800) 447-8844

2. Massachusetts Office for Refugee and Immigrants-Amnesty Hotline. Service available in several languages. (800) 521-9400.

SECTION V: NEWSLETTERS

1. **The Advisor**. Immigration Newsletter covering many aspects of IRCA (must be member to receive) to order, call (202) 544-0004.

2. **The Green Sheet.** NALEO's Newsletter on Legalization's Second Step. Contains information on various areas of phase II. To get on the mailing list call (202) 546-2536.

3. **Interpreter Releases**. A weekly report of legal decisions, administrative action, rumor and legislation relating to immigration law; used mainly by immigration attorneys. Can be found in most county law libraries, or order twelve (12) monthly issues for $240 from:

Federal Publications
1120 20th St. NW Ste.500 S.
Washington, D.C. 20036-3406
(202) 337-7000

4. **Immigrants' Rights Update**. Periodic newsletter from National Immigration Law Center in Los Angeles. Contains readable summaries of legal developments. To get on the mailing list contact NILC at (213) 487-2531.

SECTION VI: TESTS

1. **Basic English Skill Test.** For information or to order copies write to Center for Applied Linguistics. 1118 22nd. St. NW, Washington, DC 20037

   Test is designed for adult ESL learners at the survival and pre-employment level. Two components, an "Oral Interview Section" and a "Literacy Skills Section" comprise this test.

2. **CASAS Amnesty Pre-Appraisal Test.** For information on training in the administration of the test, call (619) 298-4681. (The test does not contain an oral language assessment.)

3. **Review of English Language Proficiency Tests.** TESOL, 1987.
   Reviews language proficiency assessments such as the BEST test and the JOHN test, both of which evaluate oral language proficiency although "JOHN" is quite a bit less sophisticated; does not contain information on CASAS appraisals.

SECTION VII: LEGALIZATION GUIDES

1. **Legalization Handbook.** Reinhardt and Rosenberg, National Immigration Project of the Lawyer's Guild, Clark Boardman Co. (1988). Guide to Phase I applications; later edition contains INS legislation wires. (213) 937-3757; National Office (212) 996-5000.

2. **Legalization for Special Agricultural Workers: A Training Manual.** Luis Torres, United States Catholic Conference (202) 541-3341.

3. **Legalization Phase II - An Advocate's Guide to the New Immigration Law**. Guide for non-lawyers to the second phase of the legalization program. Contains detailed discussion of requirements for phase II, as well as sections on curriculum, requirements for Certificate schools, and other issues relevant to educators. $12 from the ILRC.

4. **Legalization: The Advocates Guide to the New Immigration Law.** Immigrant Legal Resource Center. Comprehensive manual on Phase I of the legalization program includes information which is relevant to Phase II, e.g. more detailed information on relief for ineligible family members, grounds of exclusion, waivers, Cuban/Haitian program, confidentiality, etc. $25 for schools and agencies. Contact the ILRC, 1663 Mission Street, Rm. 602, San Francisco, CA 94103, Attn. Legalization Phase II or Legalization the Advocates Guide. (415)255-9499.

SECTION VIII RESEARCH-PAPERS/ARTICLES/PUBLIC HEARINGS

1. California Tomorrow-Out of the Shadows, The IRCA/SLIAG Opportunity, Commission Report 89-90 of California Post Secondary Education Commission, Sacramento, May

2. Can California Be Competitive and Caring? Mitchell, Daniel J.B. and Wildhorn, Jane, eds. Los Angeles, CA: UCLA Institute of Industrial Relations. Monograph and Research Series 49. 1989.

3. Impact of Immigration Reform and Control Act: The Orange County Experience, Report on a public Hearing. July 1989. Hispanic Development Council of United Way and Orange County Human Resources Commission (Co-Sponsors).

4. Jump Start, The Federal Role in Adult Literacy, Chisman, Forrest P. Southport Connecticut: Southport Institute for Policy Analyses, 1989.

5. The Legalization Countdown: A Third Quarter Assessment, Meissner, Doris M. & Papademmetriou, Demetrios G. Carnegie Endowment for International Peace. February 1989.

6. One Hundred Questions, The Ongoing Debate Over Language Issues in the 1986 Immigration Act, Part 2, Wrigley, Heide Spruck. Claremont, CA: Tomas Rivera Center, 1989. ~~(213) 652-6607.~~ 714.625-6607

7. Out of the Shadows, The IRCA/SLIAG Opportunity: A Report to the California Postsecondary Commission. California Tomorrow. May 1989.

8. Report from the States on the State Legalization Impact Assistance Grant Program. American Public Welfare Association. May 1989.

9. Statewide Survey of ESL Populations. Planning and Research Office, Glendale Community College November, 1989.

10. Highlights: A Survey of Newly Legalized Persons in California, Comprehensive Adult Student Assessment System (CASAS), prepared for the California Health and Welfare Agency. September 1989.

11. The Widening Divide: Income Inequality and Poverty in Los Angeles, Ong, Paul M. Project Director. Los Angeles, CA: UCLA Graduate School of Architecture and Urban Planning, 1989.

SECTION: IX: VIDEOS

1. **"Instruction Video for Completion of Form I-698".**

   Southern Regional Office of the Immigration and Naturalizaion Service. 30 Min. Spanish only. Contact your local INS district office for a copy or call Mary Bell, INS, at (415) 556-5552.

2. **"Training Ourselves So We Can Train Others"**

   A half an hour teacher training tape or amnesty courses will be available for about $15.00 from U.S. Catholic Conference. The tape includes information on ETS testing. To order, write Peggy Gleason, Asst. Director of Legalization: US. Catholic Conference: 1225 "L" Street N.W. Ste 1007: Washington, D.C. 20005. Please allow 3-4 weeks for delivery. (202) 541-3341.

3. **"Phase II Legalization"**

   A Phase II videotape, funded by the Chancellor's Office of the Community Colleges in California, is new available in Spanish and English. The tape is designed to inform applicants about phase II educational requirements and motivate them to take courses.

   John Nixon
   Rancho Santiago Colege
   Centennial Education Center
   4900 W. Edinger
   Santa Ana, CA 92704; or call (714) 667-3460

4. **"Amnesty America, The Second Step"**

   LA Unified School District, Division of Adult and Occupational Education, Amnesty Preparation Unit. 20 videos of 30 minutes each.1989.

   Contact:
   Nancy Rozella, Project Coordinator
   LA Unified School District
   1320 W. 3rd. St. Rm. 237
   Los Angeles, CA 90012
   (213) 645-4536
   or KLCS, Channel 58
   (213) 625-6958

5. **"Phase II ESL Public Service Announcement"**

Coalition for Humane Immigrant Rights (CHIRLA). Narrated by Edward James Olmos. 30 and 60 seconds. 1989. Contact Linda Mitchell (213) 736-1324.

6. **"Opportunity USA"**

Los Angeles Mayor's Office. 60 videos of 30 minutes each. 1989.

Contact:
Emily Chappell
Mayor's Office
200 N. Spring
Los Angeles, CA 90012
(213) 485-6149

7. **"Labor Immigrant Assistance Project/Phase II Amnesty Requirements"**

LIAP, project of AFL-CIO. Approx. 17min. 1989. Cost $20.00.

Contact:
Yolanda Guerrero
515 S. Shatto Place
Los Angeles, CA 90020
(213) 381-2170

8. **"La Redada (The Raid)".** Labor Immigrant Assistance Project. Project of the AFL-CIO. Approximately 28 min. 1989. Cost $25.00.

An informational drama on the rights of undocumented workers when arrested by the INS. Spanish only with English subtitles. Contact Yolanda Guerrero at the above address.

APPENDIX D

LEGALIZATION AND RPF OFFICES

Addresses of Regional Processing Facilities

NORTHERN REGION
1000 Centennial Mall North
#B-25
Lincoln, NE 68508

SOUTHERN REGION
P.O. Box 569710
Dallas, TX 75356-9710
(above address for mail only-
For overnight delivery
services, send to:
1825 Market Center Blvd.
Dallas, TX 75207)

EASTERN REGION
P.O. Box 590
Williston, VT 05495
(above address for mail only-
For overnight delivery
services, send to:
Industrial Road
Williston, VT 05495)

WESTERN REGION
P.O. Box 30040
Laguna Niguel, CA 92677
(above address for mail only-
for overnight delivery
services, send to:
Chet Hollow Field Federal Bldg.
24000 Avila Rd.
Laguna Niguel, CA 92677)

Jurisdictionns of the Regional Procesing Facilities

NORTHERN REGION

Alaska, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, Ohio, Oregon, South Dakota, Utah, Washington, Wisconsin, Wyoming

EASTERN REGION

Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virginia, Virgin Islands, West Virginia

SOUTHERN REGION

Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas

WESTERN REGION

Arizona, California, Hawaii, Nevada

For Cases in the WESTERN REGION

HOW TO CHECK THE STATUS OF A LEGALIZATION CASE

WHEN SHOULD AN APPLICANT BE CONCERNED ABOUT HIS OR HER CASE?

Applicants for Lawful Temporary Residence (the first application): The INS has now interviewed and decided almost all of the applications for temporary residence for persons who applied under the program for those living in the U.S. since before 1982. If you applied and have not yet received a notice about your case from the INS, you should contact the INS immediately. (The INS has not yet decided the cases of those applicants whose cases involve issues being decided by the courts. INS should be able to tell you if your case is being delayed for this reason.)

Applicants for the Special Agricultural Worker Program: The INS still has a large number of these temporary resident applications to decide. Many of these cases are being reconsidered by INS as the result of several lawsuits. Anyone who has not yet been notified by INS about their case should contact the INS to inquire about the status of the case.

Applicants for Permanent Residence ("Phase II"): Persons who file an application for permanent residence early (before the end of their 18 month waiting period from the date of filing the temporary resident application) will not receive an appointment for an interview until the end of the waiting period. They should receive a fee receipt card, however, within 2 months of filing. If they have not, they should inquire with INS.

Persons who apply after the 18 month waiting period should expect to receive an appointment card within about four (4) months of filing, which should schedule them for an appointment about 30 days later. If they have not received anything within this time, they should inquire with INS.

HOW TO INQUIRE ABOUT A CASE WITH THE INS

One can inquire about a case at the local Legalization Office ("LO"). However, the information that the L.O. has may be incorrect unless you ask them to contact the INS Regional Processing Facility ("RPF") directly. For this reason, we recommend that applicants contact the RPF themselves.

Calling the RPF Inquiry Line.

- The phone numbers are: (714)643-4800,-4801, and -4802.

- The numbers are often busy, so be patient. When you do get through, there will be a message, in English only, which says to stay on the line.

- There is usually someone there who speaks Spanish. If the operator that you get does not, ask to speak to another.

- You will need the following information on the case: name, "A number" (a long number that starts with A9 which can be found on the persons work authorization card or other correspondence from INS), current address, and date the application was filed (if known).

Who Can Get This Information: To protect the privacy of the applicant, the INS will not give out information to another person without the applicant's permission. The INS usually only gives out information to the applicant or to a person who has filed a Form G-28, Notice of Representation. If an applicant wants to have a friend or relative assist with the call, both the applicant and the helper should get on the telephone with the INS.

Immigrant Legal Resource Center, Sept. 8, 1989 s-27/status

LIST OF INS OFFICES PROCESSING PERMANENT RESIDENT APPLICATIONS

Legalization Offices:

Eastern Region:

Boston, MA (XBT)
Paterson, NJ (XPT)
Manhattan, NY (XMA)
Arlington, VA (XAR)

Northern Region:

Chicago, II (XBI)
Chicago, IL (XLS)
Forest Park, IL (XLI)

Southern Region:

Arlington, TX (XDA)
Lubbock, TX (XLU)
El Paso, TX (XEL)
Albuquerque, NM (XAL)
Harlingen, TX (XHA)
Houston, TX (XHU)
(Miami) Hialeah, FL (XOP)
Tampa, FL (XTA)
Fort Lauderdale, FL (XWS)
Austin, TX (XAU)
San Antonio, TX (XSN)

Western Region:

Anaheim, CA (XAH)
El Monte, CA (XEM)
Los Angeles, CA (XHO)
Huntington Park, CA (XHP)
Indio, CA (XID)
East Los Angeles, CA (XLA)
Oxnard, CA (XOX)
Pomona, CA (XPO)
Riverside, CA (XRV)
Santa Maria, CA (XSM)
Santa Ana, CA (XSA)
San Fernando, CA (XSR)
Gardenia, CA (XTO)
N. Hollywood, CA (XVN)
Phoenix, AZ (XPH)
Las Vegas, NV (XLV)
Escondido, CA (XES)
San Diego, CA (XSD)
Bakersfield, CA (XBA)
Fresno, CA (XFR)
San Francisco, CA (XSF)
Salinas, CA (XSI)
San Jose, CA (XSO)
Stockton, CA (XST)

Service Offices:

Eastern Region:

District Offices:
Baltimore, MD
Buffalo, NY
Philadelphia, PA
Portland, ME
San Juan, PR

Sub-Offices:

Albany, NY
Christiansted, VI
Hartford, CN
Syracuse, NY
Norfolk, VA
Pittsburgh, PA
Providence, RI

Southern Region:

District Offices:
Atlanta, GA
New Orleans, LA

Sub-Offices:

Charlotte, NC
Jacksonville, FL
Memphis, TN
Oklahoma City, OK

Western Region:

District Office:
Honolulu, HI

Sub-Offices:
Tucson, AZ
Agana, GU
Reno, NV

Northern Region:

District Offices:
Anchorage, AK
Cleveland, OH
Denver, CO
Detroit, MI
Helena, MT
Kansas City, MO
Omaha, NB
Portland, OR
Seattle, WA
St. Paul, MN

Sub-Offices:
Boise, ID
Cincinatti, OH
Indianapolis, IN
Milwaukee, WS
Salt Lake City, UT
St. Louis, MO
Yakima, WA

APPENDIX E

LEGALIZED ALIENS ELIGIBILITY FOR PUBLIC BENEFITS

NATIONAL CENTER FOR IMMIGRANTS' RIGHTS
1636 WEST EIGHTH STREET, SUITE 215
LOS ANGELES, CALIFORNIA 90017
(213) 487-2531

TEMPORARY RESIDENT ALIENS' ELIGIBILITY FOR PUBLIC BENEFITS

Overview

There are two types of legalization programs: one based on continuous unlawful residence in the U.S. since before January 1, 1982 (the 1/1/82 program) and one based on work as a seasonal agricultural worker (the SAW program). The laws regarding eligibility for certain public benefit programs are different for these two legalization programs.

Persons who have obtained temporary resident alien status under either amnesty program may be eligible to receive important public benefits. They may be disqualified for five years from receiving other forms of assistance. Members of their family who were born in the U.S. are eligible for all public benefits, assuming they are poor or otherwise in need. However, receipt of benefits, either by the temporary resident alien or the other citizen family members, could affect the alien's eligibility for permanent residency. This memo will describe the benefit programs that newly legalized aliens can receive and it will explain the "public charge" ground of exclusion. If you have questions after reading this, please feel free to call our office for help.

What Benefit Programs Can Legalized Aliens Receive?

There are several benefit programs that newly legalized aliens can receive. Here is a list of some of the most important ones:

1. Supplemental Security Income (SSI) – This program provides cash benefits to aliens who are over 65, blind, or disabled. To qualify, the alien must also be poor. Both 1/1/82 aliens and SAWs are eligible for this program.

2. General Relief or General Assistance – Many states provide cash benefits to needy persons who do not qualify for the federal welfare program. Each state sets its own eligibility standards. However, receiving this may hurt the alien's chances of getting permanent residency, as discussed below.

3. Federal Housing Programs – Federally-financed housing programs include public housing, rent supplements, or other reduced rental housing programs.

4. Job Training – State employment offices provide job training and job placement services to aliens with INS work authorization.

5. Child Nutrition Programs – There are no alienage restrictions on alien participation in WIC (Women, Infants, and Children Program), school lunch, or school breakfast programs. WIC provides food supplements to pregnant women, to infants, and to children under five with nutritional needs.

6. State Health Care – Most states or counties provide health care to poor persons in need of assistance. The eligibility requirements and the care that is provided will vary depending upon the program.

7. Social Security – Aliens who have worked and had earnings reported to a Social Security account may be eligible to receive retirement or disability benefits. Their dependents may be eligible for survivors' benefits in the event the wage earner dies. Temporary resident aliens can get a Social Security card, as can other aliens who have INS work authorization.

Aliens who are unemployed will want to know whether to apply for state General Assistance or federal welfare for their children. It is important that these people get a job so that they will qualify under the special rule. They should be discouraged from getting General Assistance except in a real emergency. They will then need to get job training or otherwise show that they are not likely to get public benefits again.

2. Public Charge for SAWs

SAW aliens must only show that they have not become deportable during their temporary residence period in order to qualify for permanent residence. Receipt of public benefits should not make them deportable. If they are receiving benefits from such programs as SSI or General Assistance, however, they may face problems reentering the U.S. This is because the INS will make a determination at that time as to whether the SAW alien is excludable. It is too early to tell at this time what standard INS will use for public charge exclusion for SAWs reentering the U.S. The safest advice is that SAWs who are receiving cash benefits should not leave the U.S. until after they have become permanent residents.

PUBLIC CHARGE FOR 1/1/82 AMNESTY ALIENS

Alien's Work Status	Non-Cash Benefits (food stamps, housing, medical services)	Cash Benefits (AFDC, SSI, General Assistanc
Has been working has someone to support him/her	Safe to accept for alien or family members	Not safe for alien to accept General Assistance. Take only in an emergency and then ge a job or job training. Alien is ineligible for AFDC, but U.S. citizen children can accept. Alien can get SSI but will need to file waiver of public charge to gain permanent residency.
Has not been working and has no one to support him/her	Should be safe to accept if can show at time of applying for permanent residency that not getting benefits and has a job or has job skills that show not likely to get public benefits in the future.	. . .

Questions

If you have any questions regarding alien eligibility for public benefits or regarding the public charge consequences of receiving these benefits, please feel free to call our office for assistance.

CAN RECEIVING PUBLIC BENEFITS HURT THE CHANCES OF GETTING PERMANENT RESIDENCY?

Temporary resident aliens will need to apply for permanent status in order to keep their lawful immigration status. For the 1/1/82 amnesty program, these aliens can apply for permanent residency 18 months after they applied for temporary status, but they must apply within 30 months. The SAW program operates differently. These temporary resident aliens will adjust to permanent residency on either December 1, 1989 or December 1, 1990, depending upon their agricultural work history.

1. Public Charge under the 1/1/82 Program

Temporary resident aliens under the 1/1/82 program will be screened for potential public charge exclusion when they apply for permanent residency. Any receipt of public benefits, either by the temporary resident alien or by a dependent family member, could affect the alien's application for permanent residency. However, the INS will be using a "special rule" for the 1/1/82 temporary resident aliens. Under this rule, receipt of most forms of public benefits will not hurt the alien's chances of obtaining permanent residency.

The special rule requires two things: (1) that the alien have a job or a consistent job history at the time of applying for permanent residency, and (2) that the alien not have personally received public cash assistance. The only programs that are considered cash assistance benefits are AFDC (welfare), SSI, General Assistance, and some low-income energy assistance programs that pay cash benefits directly to the household. INS will only count cash benefits received by the temporary resident alien when applying this special rule. So, for example, AFDC or SSI received by the U. S. citizen children will not count against the alien parent. Since temporary resident aliens are ineligible for AFDC, the two programs that could cause problems are SSI or state general assistance. Unemployment compensation and Social Security benefits are insurance programs, and their receipt will not count against the alien.

There is a waiver for public charge at the permanent residency stage for an alien who is over 65, blind, or disabled, as defined in the SSI program. It does not matter at what time this person became eligible for SSI in order to apply for the waiver. To obtain the waiver the alien must show one of three things: that granting the waiver would promote family unity; that it would be in the public interest; or that there are humanitarian factors. Persons who are receiving SSI can usually show that it would be a hardship if they are denied permanent residency and are required to return to their home country. This may satisfy the third criterion for obtaining a waiver.

If the temporary resident alien has a job or consistent job history and has not received SSI or General Assistance he or she will pass the public charge test. It will not matter if other family members are receiving welfare. It will not matter if the alien or other family members are receiving non-cash benefits, such as Medicaid, food stamps, or housing assistance.

If the temporary resident alien does not have a job or consistent job history, or has personally obtained cash benefits, then he or she will not be considered under the special rule. Instead, another test will be applied. This test examines whether the alien is likely to become a public charge in the future. INS will look at the alien's income and compare it to the federal poverty income guidelines. INS will also consider the alien's age, health, past employment history, and job skills. Receipt of public benefits by the temporary resident alien and by dependent family members could count against the alien under this test.

8. Unemployment Compensation – Aliens who are unemployed, through no fault of their own, may qualify for unemployment compensation. Their eligibility will depend upon how long they have worked in the past. Newly legalized aliens will be considered to have had work authorization since 11/6/86, the date the new immigration law was enacted.

What Are The Benefit Programs Legalized Aliens Cannot Receive?

Aliens who legalized under the 1/1/82 program are disqualified for five years from receiving the following programs: Aid to Families with Dependent Children (AFDC or "welfare"), food stamps, and some forms of Medicaid. Children under 18 years, and legalized aliens who are 65 and older, blind, or disabled can receive full Medicaid services. Other temporary resident aliens can receive Medicaid only for emergency treatment and pregnancy-related services. Finally, 1/1/82 temporary resident aliens may be restricted from receiving other federal financial assistance programs which have not yet been identified. The five-year disqualification period begins on the date the alien applied for amnesty.

Aliens who legalized under the SAW program are also disqualified for five years from receiving AFDC and the same Medicaid benefits as the 1/1/82 aliens. They are eligible to receive food stamps.

PUBLIC BENEFIT ELIGIBILITY FOR NEWLY LEGALIZED ALIENS

BENEFIT PROGRAM	1/1/82 LEGALIZED ALIENS	SAWs
AFDC	Not eligible	Not eligible
SSI	Eligible	Eligible
State General Assistance	States may provide	Eligible
Medicaid	Full services for aged, blind & disabled, and children under 18; others get only emergency and pregnancy-related services	SAWs are eligible for same restricted benefits as 1/1/82 aliens
State or local medical care	States may not disqualify	Eligible
Food stamps	Not eligible unless aged, blind, or disabled after obtain permanent residency	Eligible
WIC, school lunch and school breakfast	Eligible	Eligible
Federal housing programs	Eligible	Eligible
Unemployment compensation	Eligible	Eligible
Job Training	Eligible	Eligible

Final List of Programs Subject to Five-Year Disqualification

54 Federal Register 29438 (July 12, 1989)

1. Department of Agriculture:
   a. Farm Operating Loans
   b. Farm Ownership Loans

2. Department of Health and Human Services:
   a. Assistance Payments--Maintenance
   b. Assistance (Maintenance Assistance; Emergency Assistance; State Aid; Aid to Families with Dependent Children)
   c. Low-Income Home Energy Assistance
   d. Community Services Block Grant
   e. Community Services Block Grant-Discretionary Awards

3. Department of Housing and Urban Development:
   a. Mortgage Insurance-Housing in Older, Declining Areas (223(e))
   b. Mortgage Insurance-Special Credit Risks (237)
   c. Operating Assistance for Troubled Multifamily Housing Projects (Troubled Projects (Flexible Subsidy) Program)
   d. Community Development Block Grants/Entitlement Grants
   e. Community Development Block Grants/Small Cities Program (Small Cities)
   f. Section 312 Rehabilitation Loans (312)
   g. Urban development action grants
   h. Community Development Block Grants/State's Program
   i. Section 221(d)(3) Mortgage insurance for Multifamily Rental Housing for Low and Moderate Income Families (Below Market Interest Rate)

4. Department of Labor:
   a. Senior Community Service Employment Program (SCSEP)

5. Office of Personnel Management:
   a. Federal Employment for Disadvantaged Youth-Part Time (Stay-in School Program)
   b. Federal Employment for Disadvantaged Youth--Summer (Summer Aides)

6. Small Business Administration:
   a. Small Business Loans (7(a) Loans)

7. Department of Energy:
   a. Patricia Roberts Harris Fellowships (Graduate and Professional Study-Graduate and Professional Study Opportunity Fellowships; Public Service Education Fellowships)
   b. Legal Training for the Disadvantaged (The American Bar Association Fund for Public Education)
   c. Allen J. Ellender Fellowship Program (Ellender Fellowship)

8. Legal Services Corporation
   a. Payments to the Legal Services Corporation *

*Injunction in CRLA v. LSC (N.D. Cal. No. C-89-1950-CBW) (August 17, 1989) prevents